SUPREME COURT OF THE UNITED STATES.

No. 32.

THE UNITED STATES APPL'TS.

VERSUS

ELIZABETH WIGGINS.

APPEAL FROM THE SUPERIOR COURT OF EAST FLORIDA.

INDEX.

	Original.	*Print.*
Petition to the court	1	3
Answer of U. S. att'y	3	4
Leave to amend pet. & hearing commenced	5	6
Hearing continued	6,7,8	6
Leave to file replication nunc pro tunc & hearing continued	9	8
Hearing continued, and leave to amend petition and answer	12	10
Amended petition	13	11
Answer of U. S. to amended petition	17	13
Replication	23	16
Hearing continued	24,25,26,27	16,17,18,19
Hearing continued, & affidavit of Wiggins & act of the legislature entered	28	20
Evidence & testimony filed & offered in this case,		
No. 1—Memorial of Wiggins for grant	32	22
Grant to Wiggins of 300 acres	33	22
Certificate of Aguilar thereto attached	33	22
No. 2—Plat & certificate of survey of 300 acres	34	23
No. 3—Testimony taken in open court, viz:		
of Antonio Alvarez	35	24
" Jos. S. Sanchez	50	32
" Bernado Segui	75	45
" Zephaniah Kingsley	83	49
" Geo. I. F. Clarke	91	54
" John M. Fontane	99	58
" John Rodman	108	62
" Elias B. Gould	111	64
" Philip Solano	112	64
" Raphael D. Fontane	118	68
" Daniel Hurlbert	124	71
No. 4—Commission to examine F. M. Arredondo	125	72
Interrogatories to Arredondo	127	73
Answers of Arredondo	133	76
No. 5—Commission to examine J. A. Cavedo	137	78
Interrogatories to Cavedo	139	80
Answers of Cavedo	144	82
No. 6—Regulations of Gov. White	147	84
No. 7—Order of the king to the governor	151	86
No. 8—Memorial of, & grant to Farquhar Bethune	152	86
Proceedings instituted by Bethune to obtain royal title	155	88
Royal title to Bethune	163	93

No. 9—Memorial of, & grant to Lyndsey Tod -	166	94
Proceedings instituted by Tod to obtain royal title	167	95
Royal title to Tod - - -	176	100
No. 10—Memorial of, & grant to J. D. Vaughan -	179	101
Proceedings instituted by Vaughan to obtain royal title	180	102
Royal title to Vaughan - - -	186	105
No. 11—Memorial of, & grant to W. Jordine -	188	107
Proceedings instituted by Jordine to obtain royal title	190	108
Royal title to Jordine - - -	200	113
No. 12—Memorial of, & grant to Juan Holzendorf -	203	115
No. 13—Memorial of, & grant to Geo. I. F. & Chas. W. Clarke	205	116
Memorial of Geo. Clarke to change location, with report & decree of Gov. - - -	205	117
No. 14—Letter—Gov. of Florida to Capt. Genl. -	210	119
" Capt. Genl. to Gov. of Florida -	213	121
No. 15—Memorial of, & grant to Augus Clarke -	214	121
Certificate and plat of survey - -	215	122
Royal title to A. Clarke - - -	217	123
No. 16—Letter—Gov. of Florida to Capt. Genl. -	220	124
" Capt. General to Gov. of Florida -	226	125
Cause continued for further proof - - -	228	128
Agreement between the counsel for the U. States, and council for claimants - - - - -	228	128
Further proof offered & case submitted - -	229	129
No. 17—Memorial of, & grant to F. M. Arredondo, certified by Aguila - - - -	231	130
Memorial of Arredondo for royal title and decree	232	132
Royal title to Arredondo - -	234	132
Testimony of Antonio Alvarez relating to the foregoing documents - - - -	236	134
Decree of the court - - - -	238	135
Appeal to Supreme Court - - - -	239	135

Langtree & O'Sullivan, Print.

Before the Honorable Robert Raymond Reid, Judge of the Superior Court for the District of East Florida, and specially authorised by law to receive and adjudicate claims and titles to lands in the District of East Florida.

Be it remembered, that on the twenty-sixth day of May, in the year of our Lord one thousand eight hundred and thirty-one, Elizabeth Wiggins, by her attorney, brought and filed in the clerk's office of the superior court for the District of East Florida, her petition or claim to certain land therein mentioned; which said petition or claim is in the words and figures following, to wit:

Petition to the Court.

SUPERIOR COURT—*District of East Florida.*

ELIZABETH WIGGINS *vs.* THE UNITED STATES. } Claim for 300 acres of land, Lake George.

To the Honorable Joseph L. Smith, Judge of the Superior Court for the District of East Florida aforesaid, specially authorised to adjudicate claims to lands in said District:

The petition of Elizabeth Wiggins respectfully showeth:

That she claims title to three hundred acres of land, which is more particularly set forth and described in the annexed copy of a certificate and survey marked A; that said land was granted to her by the Spanish government, on the 6th August, 1815.

And your petitioner further shows, that the said claim was duly submitted to the examination of the board of land commissioners, appointed under the several acts of the Congress of the United States for the district aforesaid, in which said land is situated, which is within the jurisdiction of this court, and is embraced in the treaty between the United States and Spain, and has not been finally settled under any of the said acts of Congress, nor has it been reported as ante-dated or forged, nor has it been annulled by the aforesaid treaty, nor by the decree ratifying or confirming the same.

Wherefore, your petitioner prays that the validity of her said claim may be enquired into and decided by this honorable court, and in pursuance of the provisions by the said Congress made and provided, the said United States be made a party to this petition, and that process in this behalf do forthwith issue against Thomas Douglas, Esq.,

the attorney of the United States for the said district of East Florida, according to the usages in such cases made and provided.

And your petitioner, as in duty bound, will ever pray, &c.

E. B. GOULD,
Attorney for petitioner.

A copy of the foregoing petition, with a citation thereto annexed, was delivered to the marshal of this district, to serve on the attorney of the United States for the same district, and the return of the said marshal is in the words and figures following, to wit: "Executed by serving copy on Thos. Douglas, Esq., this 21st day of July, 1831."

"WATERS SMITH, *Marshal.*"

And afterwards, to wit, on the nineteenth day of August, in the year of our Lord one thousand eight hundred and thirty-one, Thomas Douglas, Esq., United States attorney for the district of East Florida, brought and filed in the clerk's office aforesaid, his answer to the said petition; which said answer is in the words and figures following, to wit:

Answer of United States Attorney.

The answer of Thomas Douglas, United States Attorney for the District of East Florida, to the petition or bill of complaint of Elizabeth Wiggins:

The said attorney, in the name and for and on behalf of the United States of America, saving and reserving to them, now and at all times hereafter, all and all manner of benefit of exception to the manifold errors, defects and irregularities in the said petition or bill of complaint contained, for answer thereunto, or unto so much thereof as it may be material and necessary for them to answer unto, answereth and saith:

That the claim of the petitioner (as appears by her own showing) is for a less quantity of land than three thousand five hundred acres, to wit, for three hundred acres only; and that the claim of the petitioner to the tract of land aforesaid was decided and finally settled by the register and receiver of the district aforesaid, while they acted as a board of commissioners for the examination of claims and titles to land in said district, in the year of our Lord one thousand eight hundred and twenty-eight, as will more fully appear by reference to the report of the said register and receiver upon the said claim, a copy of which is hereunto annexed and made a part of this answer, as exhibit A, in this cause.

And this respondent avers and insists that, for the reasons above specified, this honorable court has no jurisdiction of this cause, and cannot take cognizance thereof against the United States.

And this respondent further saith, that it is not alleged or pretended that the petitioner, at the time of the making of the said supposed grant, had any family or slaves, [without which she would not have

been entitled to such a grant of lands,] or that she ever took possession of or cultivated said land, or any part thereof.

And this respondent farther saith, that whether any grant of the said tract of land was ever made to the said petitioner, or whether the same was ever surveyed or not, this respondent has no knowledge, and cannot therefore either admit or deny the same, but leaves the petitioner to such proofs as she shall be able to make thereof at the hearing of this cause, (if this honorable court shall take cognizance of it.)

And this respondent farther saith, that the said petitioner has always hitherto failed and neglected to occupy, improve or cultivate the said tract of land, and has abandoned the same, and thereby wholly forfeited and lost all right and title, if any they ever had, thereto.

And now, having fully answered all the matters and things in the said petition or bill of complaint contained, alleged and set forth, as they are therein stated, the said attorney prays that the said United States may be hereof dismissed and discharged, and that their reasonable costs, by them, in and about the defence of this suit, paid, laid out, and expended, may be adjudged and decreed to them.

THOS. DOUGLAS,
United States Attorney, &c.

EXHIBIT A—REPORT No. 2.

Rejected Cases, No. 13.

Isabella Wiggins claimant, 300 acres of land, Lake George. This is a claim under the certificate of Geo. J. F. Clarke, of the 23d March, 1821, with no other document.

No. 25.

Isabella Wiggins claims 300 acres of land east of Lake George. No evidence of cultivation—it is therefore rejected.

The above is extracted from the report of the register and receiver, which bears date January, 1827, pages 47 and 50.

And afterwards, before the superior court for the district of East Florida, holden at the court-house in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and thirty-three, to which term this cause had come by regular continuance, to wit, on Saturday, the twelfth day of said term, and the twentieth day of said month, the following entry of record was made in this cause, to wit:

Leave to amend petition and hearing commenced.

ELIZABETH WIGGINS
vs.
THE UNITED STATES OF AMERICA. } Land claim, 300 acres.

This day, came as well the counsel for the said claimant as the counsel for the said United States; and on motion of the claimant's counsel, and with the assent of the counsel for the United States, leave is given the said claimant to amend his petition, filed herein: and this cause coming on to be heard this day; the petition of the said claimant, together with the answer of the attorney of the United States thereto, were read to the court; and Antonia Alvarez and Joseph S. Sanchez were sworn as witnesses on the part of the said claimant, examined, and their testimony taken.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-three, to wit, on Monday, the thirteenth day of the said term, and the twenty-second of said month, the following entry of record was made in this cause, to wit:

Hearing continued.

ELIZABETH WIGGINS
vs.
THE UNITED STATES OF AMERICA. } Land claim, 300 acres.

This day, came as well the counsel for the claimant as the counsel for the United States, and the court proceeded in the farther hearing of this cause; and Joseph S. Sanchez, a witness sworn herein on yesterday, was on this day again called and examined, as well on the part of the claimant as on the part of the United States, and his testimony taken.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-three, to wit, on Tuesday, the fourteenth day of the said term, and the twenty-third of said month, the following entry of record was made in this cause, to wit:

Hearing continued.

ELIZABETH WIGGINS
vs.
THE UNITED STATES OF AMERICA. } Land claim, 300 acres.

This day, came as well the counsel for the said claimant as the counsel for the said United States, and the court proceeded in the further hearing of this cause; and Bemado Sequi and Zephaniah Kingsley were sworn as witnesses in this case on behalf of the claimant, and

examined, as well on the part of the claimant as on the part of the United States, and their testimony taken.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-three, to wit, on Wednesday, the fifteenth day of the said term, and the twenty-fourth day of said month, the following entry of record was made in this cause, to wit:

Hearing continued.

ELIZABETH WIGGINS
vs.
THE UNITED STATES OF AMERICA. } Land claim, 300 acres.

This day, came as well the counsel for the said claimant as the counsel for the United States, and the court proceeded in the further hearing of this cause; and George J. F. Clarke was sworn as a witness in this cause on behalf of the claimant, examined, and his testimony taken; and Zephaniah Kingsley, a witness sworn herein on yesterday, was on this day again called, examined, and his testimony taken.

And afterwards, at the same term of July, In the year of our Lord one thousand eight hundred and thirty-three, to wit, on Thursday, the sixteenth day of the said term, and the twenty-fifth day of said month, the following entry of record was made in this cause, to wit:

Hearing continued.

ELIZABETH WIGGINS
vs.
THE UNITED STATES OF AMERICA. } Land claim, 300 acres.

This day, came as well the counsel for the said claimant as the counsel for the United States, and the court proceeded in the further hearing of this cause; and John M. Fontane and John Rodman were sworn as witnesses, on this day, on behalf of the claimant, and examined, as well on the part of the claimant as on the part of the United States, and their testimony taken.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-three, to wit, on Friday, the seventeenth day of the said term, and the twenty-sixth day of said month, the following entry of record was made in said cause, to wit:

Hearing continued.

ELIZABETH WIGGINS
vs.
THE UNITED STATES OF AMERICA. } Land claim, 300 acres.

This day, came as well the counsel for the said claimant as the counsel for the United States, and the court proceeded in the further hearing of this cause; and Antonio Alvarez, a witness heretofore sworn herein, was on this day again called, examined, and his testimony taken; and Elias B. Gould was on this day sworn as a witness in this case, examined, and his testimony taken.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-three, to wit, on Saturday, the eighteenth day of said term, and the twenty-seventh day of said month, the following entry of record was made in said cause, to wit:

Leave to file replication, and hearing continued.

ELIZABETH WIGGINS
vs.
THE UNITED STATES OF AMERICA. } Land claim, 300 acres.

This day, came as well the counsel for the said claimant as the counsel for the United States, and the court proceeded in the further hearing of this cause. The counsel for the claimant moved the court for leave to file his replication herein at this time, nunc pro tunc; to which the counsel for the United States objected—which objection was overruled by the court, and leave given the said claimant to file his replication herein nunc pro tunc; and leave given the counsel for the United States to continue the cause, if they should think proper, which leave the counsel for the said United States did not accept, and the cause proceeded. Whereupon, the said claimant filed his replication. The counsel for the claimant then offered in evidence the document purporting to be an original certified copy of a concession to Elizabeth Wiggins for three hundred acres of land on the eastern side of the pond of St. George, which concession bears date 6th August, 1815, and the certificate of Thomas de Aguilar the 6th August, 1815, together with a certified translation thereof, by the translator and interpreter of this court, and is the same document exhibited and testified to by the witnesses Bemado Sequi and Antonio Alvarez, heretofore examined in this case. To the receiving of the said document in evidence, the counsel for the United States objected, and filed the following reasons therefor, to wit:

"The counsel for the claimant offered in evidence a paper certified by Thomas de Aguilar, said to be late secretary of the government of this province, to be a true copy of an original concession alleged to have been in his office at the date of the certificate. To the receiving of this paper in evidence, the counsel for the United States object on the following grounds:

"1st. Because the Spanish archives of the province, among which the original concession should have been found, if any such ever existed, have been resorted to, and they afford no evidence that such an original ever did exist.

"2d. Because the absence of the original from the office where the laws and usages of Spain required it to be deposited, and where the laws of the United States now require all such documents to be kept, [when unexplained,] creates a strong presumption that no such original ever existed.

"3d. Because the absence of the original from the office assigned for it by law is unexplained and unaccounted for.

"4th. Because the complainant has not proven the execution of the original from which the copy is certified to have been taken.

"5th. Because the original, if produced, could not be received in evidence, without proving the signature of the governor; and a copy can never be received in evidence when the original, if produced, would require support from collateral proof.

"6th. Because the copy cannot prove the signature of the governor to the original grant, if any such original ever existed.

"7th. Because to admit the copy in evidence would be to allow it higher dignity and credit than the original."

Which objections were overruled by the court, and the said document admitted in evidence in this case.

The counsel for the claimant then offered in evidence a certified copy, by the keeper of the public archives for East Florida, of the above named alleged original certified copy by the said Thomas de Aguilar, together with the certified translation thereof, made by the translator and interpreter of this court. To the receiving of which in evidence, the counsel for the United States objected, and filed the following reasons therefor, to wit:

"The counsel for the claimant offered in evidence a document certified by the keeper of the public archives to be a copy of a document in his office, certified by Thomas de Aguilar to be a copy of a concession to the claimant for three hundred acres of land, dated 6th August, 1815: to the receiving of which in evidence, the counsel for the United States objected, on the ground:

"1st. Because it is only the copy of a copy.

"2d. Because the document from which it is taken has already been given in evidence in this case by the complainant.

"3d. Because the document from which it is certified to be taken could not be received in evidence without support from collateral proof.

"4th. Because the claimant has not proven the execution of the original from which the first copy was taken.

"5th. Because the archives have been examined, and they furnish no proof that such an original ever existed.

"6th. Because if such an original ever did exist, it should now be found in the office of the public archives.

"7th. Because the absence of the original from the office where the laws and usage of Spain required it to be deposited, and where

the laws of the United States now require all such documents to be kept, creates a strong presumption that no such original ever existed.

"8th. Because the original from which the first copy was taken could not be received in evidence without support from collateral proof."

Which objections were overruled by the court, and the certified copy by the keeper of the public archives ordered to be received in evidence; and the court further ordered that the aforementioned two documents should be considered as subject to such opinion as the court may hereafter entertain as to their admissibility in evidence, on hearing the argument in this cause.

The counsel for the claimant then offered in evidence the certified copy, by the keeper of the public archives, of the original plat and certificate of survey in this case, together with the certified translation thereof, made by the translator and interpreter of this court; to the receiving of which in evidence the counsel for the United States objected, alleging that the same is not embraced by or mentioned in the petition of the said claimant. Which objection was overruled by the court, and the said certified copy admitted in evidence.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty three, to wit, on Monday, the nineteenth day of said term, and the twenty-ninth day of said month, the following entry of record was made in this cause, to wit:

Hearing continued, and leave to amend petition and answer.

ELIZABETH WIGGINS
vs.
THE UNITED STATES OF AMERICA. } Land claim, 300 acres.

This day, came as well the counsel for the said claimant as the counsel for the said United States, and the court proceeded in the further hearing of this cause; and, on motion of the counsel for the claimant, and with the assent of the counsel for the United States, leave is given the said claimant to amend his petition filed herein; and, with the assent of the counsel for the claimant, leave is given the counsel for the United States to amend the answer filed herein.—The further hearing of this cause was, with the consent of the parties, postponed till to-morrow morning.

And afterwards, to wit, on the thirty-first day of July in the year of our Lord one thousand eight hundred and thirty-three, the said claimant, by her solicitor, under the leave above set forth, brought and filed in the clerk's office aforesaid, her amended petition; which is in the words and figures following, to wit:

Amended petition.

SUPERIOR COURT—*District of East Florida.*

ELIZABETH WIGGINS
vs.
THE UNITED STATES. } Claim for 300 acres of Land.

To the Honorable Joseph L. Smith, Judge of the Superior Court, for the District of East Florida aforesaid, specially authorised to adjudicate claims to lands in said District:

The petition of Elizabeth Wiggins respectfully sheweth:

That she claims title to three hundred acres of land, which is more particularly set forth and described in the copy of a certificate and survey (marked A) and herewith filed, executed by George J. F. Clarke, surveyor general of the province, and dated the 23rd March, 1821.

That said land was granted to her, by the Spanish Government, on the sixth day of August in the year 1815, which said grant being without any condition expressed therein, vested the title and property of, in, or to the said land, therein mentioned, absolutely in your petitioner. But your petitioner is advised that it is pretended, on the part of the United States, that the said concession was made by the Spanish Government and received by your petitioner upon, and subject to a condition, though none such is expressed in the said concession; that your petitioner, in order to entitle her to an absolute title and right to the said land, should have occupied or cultivated the said land, or some part thereof, for some definitive period, which is unknown to your petitioner. Your petitioner, not admitting in any wise the existence or operation of any such condition, but expressly denying the same, and relying on the unconditional and absolute nature of the aforesaid concession, so made, as aforesaid to her, submits to this honorable court, that if the court shall be of opinion that the said concession was or is subject to any such condition as is pretended, on the part of the United States, as aforesaid, to apply to it, your petitioner has been prevented from fulfiling and performing the said condition, by the causes hereinafter mentioned, which she could in no manner avert or control, and which she offers and relies upon, as an excuse for the non-performance of the said condition, that is to say, that soon after the making of the said grant, and anterior to the transfer of Florida to the United States, by the Spanish authorities in East Florida, the Spanish Government became and were, and continued, until the said transfer, altogether unable or unwilling, and they wholly failed to maintain or exercise any authority, power, or government in that part of East Florida in which the said granted lands are situated, or to afford protection to any persons disposed to settle there. That during that period, numerous and lawless bands of marauding whites and Indians, infested every part of the country,

bordering and in the neighborhood of both sides of the St. Johns river, more especially of that part of it in which the lands, herein claimed by your petitioner, are directed to be located, with exasperated and hostile feelings against the Spanish inhabitants of the province, insomuch that it was rendered absolutely imposible to settle said portion of the country, (to wit, that in which the lands herein claimed by your petitioner are situated,) with safety to the persons or property of those who might have ventured so to do. That the said state of insecurity and danger from the aforesaid causes and from the unsettled state of the country arising from other causes, in attempting a settlement upon the land designated in the grant to your petitioner, herein referred to, continued for sometime after the transfer of Florida to the United States, and until the government of the said United States took efficient measures to protect the country, by posting troops at various stations; your petitioner, therefore, charges and insists that, under such a state of things, it was not practicable for her, your said petitioner, to perform the condition of her said grant, (if indeed it should be adjudged that any condition whatever was thereto annexed,) and that she was and is thereby, in law and equity, absolved from the performance of the same.

And your petitioner further shews unto your Honor that the claim of your petitioner to the said land has been duly submitted to the examination of the board of commissioners, under and in virtue of an act of the Congress of the United States, entitled "an act amending and supplementary to the act for ascertaining claims and titles to lands in the territory of Florida, and to provide for the survey and disposal of the public lands in Florida," passed the 3rd of March, 1823, that the lands so claimed by your petitioner are situated in the territory of Florida, and within the jurisdiction of this honorable court; that they are embraced by the treaty between Spain and the United States of the 22nd February 1819, and that the title of your petitioner thereto has not been by the said treaty annulled; that the said claim of your said petitioner to the said land has not been decided or finally settled under the provisions of any of the several acts of Congress providing for the settlement of claims to land in Florida, and that the said claim of your petitioner for the said land has not been reported by the commissioners appointed under any of the said acts, or any other, or by the register and receiver, acting as such, under the several acts of the Congress of the United States in that case made and provided as antedated or forged.

Wherefore your petitioner prays that the validity of her title to said land, may be enquired into and decided upon by this honorable court, and that in pursuance of an act of Congress for that purpose, in that case made and provided, the United States of America be made a party defendant to this petition, and that process in this behalf do forthwith issue against Thomas Douglas, the attorney for the United States in this district, according to the provisions of the said act of Congress above alluded to. And your petitioner, as in duty bound, will ever pray, &c.

E. B. GOULD,
Solicitor for Petitioner.

And afterwards, to wit, on the thirty-first day of July, in the year of our Lord one thousand eight hundred and thirty-three, Thomas Douglas, Esq., United States attorney for the district of East Florida, under the leave above set forth, brought and filed in the clerk's office of the said court, his amended answer in said cause; which is in the words and figures following, to wit:

Answer to amended Petition.

SUPERIOR COURT—*District of East Florida.*

THE UNITED STATES *ads.* ELIZABETH WIGGINS. } Claim for 300 acres of Land.

The answer of Thomas Douglas, United States attorney for the District of East Florida, to the petition or bill of complaint of Elizabeth Wiggins.

The said attorney, in the name, and for and on behalf of the said United States, saving and reserving to them, now and at all times hereafter, all and all manner of benefit, of exception to the manifold errors, deficiencies, and irregularities in the said amended petition or bill of complaint contained, for answer thereunto, or unto so much thereof as it is material and necessary for them to answer unto, answereth and saith.

That he has no knowledge of the making of the certificate and survey marked (A) and set forth and described in the said petition, or of the making and execution of any such grant as that described in said petition, and therein alleged to have been made to the complainant, by the Spanish Government, on the 6th of August, 1815, and cannot therefore either admit or deny the same, but prays that the said petitioner may be required, upon the hearing of this cause, to make full proof of the making and execution of the said survey and certificate, and of the making of said grant, if, indeed, any such certificate and survey or grant were ever made, (which is not admitted) and that she may also be required to show and prove the authority under which they were respectively made.

But this respondent denies that said supposed grant, [if, indeed, any such was ever made, which is not admitted, but requires proof,] vested the title of property of, in, or to the lands therein mentioned, absolutely or otherwise in the petitioners.

And this respondent further saith that if any such grant or concession was ever made by the Spanish Government to said petitioner as she has set forth and described in her said petition or bill of complaint, (which is not admitted,) it was made subject to the conditions prescribed by the usage, practice, and custom of the Spanish Government, which prevailed in this province at the time when the said supposed concession or grant bears date, although no condition may have been expressly set forth upon the fact of said supposed

concession or grant; and that by the said usage, practice, and custom of the government aforesaid, which prevailed in said province at the time aforesaid, ten years occupancy and cultivation of lands held under such a concession or grant was necessary to give the grantee the title in fee simple to the lands. And this respondent submits that said usage, practice, and custom had the force of law at the time aforesaid, in said province, unless they were overruled by the general laws of Spain which required four years occupation and cultivation under such a concession to give to the grantee to title to the lands.

And this respondent further saith that by the regulations of Governor White, which were in force in said province at the time when said supposed grant or concession is alleged to have been made, it is provided, among other things, that all concessions in which no time was specified, should become extinct, and should be considered null if the person to whom they were made did not take possession and cultivate the same, within six months from the date thereof, and that all persons who should have abandoned or discontinued the cultivation, nor actually cultivate the said land, which should at any period have been measured to them by the surveyor general, although they may have obtained the corresponding title of property from the notary's office, they should lose their right to the same, if said land shall have been uncultivated at least two years following. And this respondent saith that it is not alleged nor pretended, by the said petitioner in her said petition or bill of complaint that the said petitioner ever took possession of, occupied, or cultivated said land at all, and this respondent relies upon said defect in the said petition or bill of complaint as matter of defence in this cause, and prays that he may have the same benefit therefrom at the hearing as though he had demurred to said petition or bill; and this respondent denies that the said petitioner has been prevented from fulfilling and performing the said conditions, by the causes in her said petition alleged and set forth, or that any such causes existed; and this respondent most especially denies that soon after the making of said supposed grant, and anterior to the transfer of Florida to the United States, the Spanish Government, became, and was, and continued until the said transfer, either unable or unwilling, or that they wholly failed to exercise and maintain any authority power or government in that part of East Florida in which the said lands are situated or to afford protection to any persons disposed to settle there.

This respondent also denies that the portion of the country where the said lands are situated, was so infested by lawless bands of marauding whites and Indians with exasperated and hostile feelings against the civilized inhabitants of the province, as to render it absolutely impossible to settle or ever to visit that portion of the country with safety to the persons or property of those who might have ventured to do so; or that the said state of insecurity and danger, if it ever existed at all, continued for some time or any time after the transfer of Florida to the United States; or that if such a state of things existed that it was not practicable for the said petitioner to per-

form the condition of said grant, or that she was or is in law or equity excused or absolved from the performance of the same.

And this respondent further saith, that if any such difficulties did exist after the making of the said supposed grant, (if indeed any such was ever made,) as the said petitioner has alleged to have interfered with and prevented the performance of said condition, (which is not admitted,) they all existed to the same extent, at the date of said supposed concession, and when the same petitioner took upon herself the performance of said condition, as they did afterwards, and that they afford her no excuse or justification whatever, for the non-performance of their said condition.

And this respondent further saith, that more than twelve years have elapsed since the making of the treaty between the said United States and the Spanish Government, pursuant to which the above mentioned transfer of Florida to the United States took place; and that is not pretended or alleged by the said petitioner, that even up to this date, the conditions of the said supposed grant have been complied with and fulfilled, agreeably to the true intent and meaning of the provisions of the 8th article of said treaty, if even the said supposed grant is embraced by said provisions.

And this respondent further admits, that said supposed grant was submitted to the examination of the same board of commissioners, in the said petition or bill of complaint mentioned, and that said board of commissioners rejected the petitioner's claim thereto, as will appear by reference to the decree of said board thereon, a copy of which is hereunto annexed.

And this respondent further admits, that said lands are situated in East Florida, and that they are embraced by the treaty in said petition mentioned; but this respondent denies that it is not annulled by said treaty, and insists that it is not alleged or pretended by the said petitioner; that the conditions of said grant or concession were performed and completed within the term limited for the performance of the same, and prays that he may have the same benefit of said defect at the hearing, as though he had demurred to said petition; and this respondent submits to this honorable court whether the said grant or concession is not rendered entirely null and void, by the provision contained in the latter clause of the 8th article of said treaty.

And this respondent admits, that the claim of the petitioner to said land has not been reported, as antedated or forged by the said board of commissioners, or by the register and receiver acting as such.

And now having fully answered all the matters and things in the said petition or bill of complaint contained, as the same are therein alleged and set forth, the said attorney prays that the said United States may be hence discharged; and that their reasonable costs and charges in this behalf, paid, laid out and expended, may be adjudged and decreed to them, &c.

THOS. DOUGLAS, *U. States Attorney, &c.*

And on the twenty-seventh day of July, in the year of our Lord one thousand eight hundred and thirty-three, the solicitor for the said claimant, under the leave of the court herein before set forth, brought and filed nunc pro tunc in the clerk's office aforesaid, his replication, which is in the words and figures following, to wit:

Replication.

IN THE SUPERIOR COURT, *District of East Florida:*

ELIZABETH WIGGINS, *vs.* THE UNITED STATES OF AMERICA. } Land claim 300 acres, at Lake George.

This replicant saving and reserving to herself, all and all manner of advantage of exception, to the manifest insufficiencies of the answer of the United States herein, for replication thereto, says that she will aver and prove her said bill to be true, certain and sufficient, in the law to be answered; and that the answer of the said United States is uncertain, untrue and insufficient, in the law to be replied to by this replicant, without that, that any other matter or thing whatsoever in the said answer contained, material or effectual, in the law to be replied unto, confessed or avoided, traversed or denied, is true, all which matters and things this replicant is, and will be, ready to answer and prove as this honorable court shall direct, and humbly prays, as in and by said bill he hath already prayed, &c.

E. B. GOULD, *Attorney for petitioner.*

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-three, to wit: On Friday, the twenty-third day of said term, and the second day of the month of August, the following entry of record was made in this cause, to wit:

Hearing continued.

ELIZABETH WIGGINS, *vs.* THE UNITED STATES OF AMERICA. } Land claim, 300 acres.

This day came as well the counsel for the said claimant, as the counsel for the United States; and the court proceeded to the further hearing of this cause, and Joseph S. Sanchez, a witness heretofore sworn herein, was on this day again called, examined, and his testimony taken.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-three, to wit: On Saturday, the twenty-fourth day of said term, and the third day of the month of August, the following entry of record was made in this cause, to wit:

Hearing continued.

ELIZABETH WIGGINS,
vs.
THE UNITED STATES OF AMERICA. } Land claim, 300 acres.

This day came as well the counsel for the said claimant, as the counsel for the United States, and the court proceeded in the further hearing of this cause, and Bemado Segui, a witness heretofore sworn in this case, was on this day again called and examined, and his testimony taken; and Philip Solano and Raphael D. Fontane were on this day sworn as witnesses in this case, examined, and their testimony taken.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-three, to wit: On Monday, the twenty-fifth day of said term, and the fifth day of the month of August, the following entry of record was made in this cause, to wit:

Hearing continued.

ELIZABETH WIGGINS,
vs.
THE UNITED STATES OF AMERICA. } Land claim, 300 acres.

This day came as well the counsel for the said claimant, as the counsel for the said United States, and the court proceeded in the further hearing of this cause, and Daniel Hurlbert was, on this day, called by the counsel for the said claimant, and sworn as a witness in this case, examined, and his testimony taken; and Antonio Alvarez and George J. F. Clarke, witnesses heretofore sworn in this case, were on this day called by the counsel for the United States, examined, and their testimony taken.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-three, to wit: On Tuesday, the twenty-sixth day of said term, and the sixth day of the month of August, the following entry of record was made in this cause, to wit:

Hearing continued.

ELIZABETH WIGGINS,
vs.
THE UNITED STATES OF AMERICA. } Land claim 300 acres.

This day came as well the counsel for the said claimant, as the counsel of the said United States; and the court proceeded in the further hearing of this cause, and George J. F. Clarke, a witness heretofore sworn in this case, was on this day again called and examined, as well on the part of the claimant as on the part of the United States, and his testimony taken; and William G. Davis and William Lev-

ingston were on this day called and sworn as witnesses in this case, on the part of the United States.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-three, to wit: On Wednesday, the twenty-seventh day of said term, and the seventh day of the month of August, the following entry of record was made in this cause, to wit:

Hearing continued.

ELIZABETH WIGGINS,
vs.
THE UNITED STATES OF AMERICA. } Land claim 300 acres.

This day came as well the counsel for the said claimant, as the counsel for the said United States, and the court proceeded in the further hearing of this cause. The counsel for the United States offered William G. Davis a competent witness, for the purpose of proving that in the year 1821, about a month before the delivery of the province of East Florida to the United States; that Thomas de Aguilar, late secretary of the government of the province, the same officer who certified the copy of the alleged grant, on which the petitioner relies to support her claim, did offer to forge or fabricate a grant in favor of the said witness, for a tract of land in said province. The counsel for the claimant objected to the examination of the witness, which objection was sustained by the court. The counsel for the United States except to the opinion of the court, and pray that this, their bill of exceptions, may be signed and sealed by the court, and made a part of the record, which is ordered accordingly.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-three, to wit: On Thursday, the twenty-eighth day of said term, and the eighth day of the month of August, the following entry of record was made in this cause, to wit:

Hearing continued.

ELIZABETH WIGGINS,
vs.
THE UNINED STATES OF AMERICA. } Land claim 300 acres.

This day came as well the counsel for the said claimant, as the counsel for the United States, and the court proceeded to the further hearing of this cause. The counsel for the United States offered to examine William Levingston, a witness heretofore sworn in this case, on the part of the United States, for the purpose of showing that Thomas de Aguilar, late secretary of the Spanish government in this province, sometime in the year 1821, did offer to make and forge, or did make and forge, under the signature of Enrique White, formerly the governor of this province, a grant of land in this province

in favor of said witness. To the receiving of this testimony the counsel for the said claimant objected, which objection was sustained by the court, to which decision of the court the counsel for the United States excepted. The counsel for the United States then offered, in evidence in this case, various documents, all of which are filed herein; and Antonio Alvarez, a witness heretofore sworn in this case, was on this day again called by the counsel for the United States, examined, and his testimony taken.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-three, to wit: On Friday, the twenty-ninth day of said term, and the ninth day of the month of August, the following entry of record was made in this cause, to wit

Hearing continued.

ELIZABETH WIGGINS,
vs.
THE UNITED STATES OF AMERICA. } Land claim 300 acres.

This day came as well the counsel for the said claimant, as the counsel for the United States, and the court proceeded in the further hearing of this cause; and the counsel for the United States on this day offered various other documents in evidence in this cause, all of which are filed herein.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-three, to wit: On Saturday, the thirtieth day of said term, and the tenth day of the month of August, the following entry of record was made in this cause, to wit:

Hearing continued, &c. and case submitted.

ELIZABETH WIGGINS,
vs.
THE UNITED STATES OF AMERICA. } Land claim 300 acres.

This day came as well the counsel for the said claimant, as the counsel for the said United States, and the court proceeded in the further hearing of this cause. The counsel for the claimant offered the affidavit of the said Elizabeth Wiggins, in evidence, to prove the loss of the original petition and grant or concession in this cause, and that the same were not within the control, possession or knowledge of the said claimant; which affidavit is in the words following, to wit: "In the superior court, district of East Florida, Elizabeth Wiggins, vs. the United States—land claim for 300 acres at Lake George." "Personally appeared, Elizabeth Wiggins, the petitioner in the above named cause, who, being duly sworn, doth depose and say, that sometime in August, 1815, according to the best of her recollection, she petitioned Governor Estrada for a grant of land of three hundred acres; that she received, shortly after presenting said petition, from the secretary of the government, a certified copy of

said petition, and the decree of the governor, granting said lands to her; that she has not at this time, nor has she ever had, possession or control of the original grant or concession of these lands, or of her memorial or petition for the same, since it was presented by her, as above stated; that she always understood and verily believes that said original memorial and grant of said lands was, at the date thereof, placed in the proper public office, as is usual in such cases; that now she understands from her counsel, that the same cannot be found in the proper public office wherein such papers belong; that she is herself utterly ignorant what has become of them, but has reason to believe that they are lost or mislaid, so as to be altogether beyond the power, control or knowledge of this deponent.

(Signed)

her
ELIZABETH ✕ WIGGINS."
mark.

"Sworn to before me, this 25th day of July, 1833.
JOSEPH S. SANCHEZ, J. P."

But the said counsel for the said United States objected to the admission of said affidavit in evidence, which objection was sustained by the court, to which decision of the court excluding said affidavit, the counsel for the claimant except, and pray that this their bill of exception be signed, sealed, and made a part of the record in this case.

The counsel for the claimant then offered in evidence in this case, an act of the legislative council of this territory, entitled "an act in addition to an act for the appointment of keepers of the public archives."

"Be it enacted by the governor and legislative council of the territory of Florida, that the keepers of the public archives be and hereby are authorised to receive in deposite in their several offices, under the superintendance and direction of the district attorneys, all such papers or records as appears to have been heretofore taken from said offices; and it shall be the duty of the said keepers of the archives to endorse on every paper thus received, the time and manner of receiving the same, and the name of the person from whom it was received.

"SEC. 2. Be it further enacted, that the keeper of the public archives be and hereby are authorised to deliver to the respective public officers of this territory, to which they properly belong, such papers and records as are now in the office of the public archives, and do not belong to the said office.

"SEC. 3. Be it further enacted, that it shall be the duty of the keeper of the public archives to attend with any records when thereunto required by a 'subpœna duces tecum,' issuing out of any of the courts of this territory.

"SEC. 4. Be it further enacted, that it shall be the duty of the keepers of the public archives to procure a seal for their respective

offices, and to furnish true and correct copies of all papers, documents or records in their offices, certified under their hands and seal of office, and all copies so certified, as aforesaid, shall be as good and as valid in law as the original thereof.

GEORGE MURRAY,
President of the Legislative Council.

"Attested:
F. J. FATIO, *Clerk.*

"Approved, July 3rd, 1823.

WILLIAM P. DUVAL,
Governor of the Territory of Florida."

To the receiving of this act of the legislative council in evidence, the counsel for the United States objected, which objection was sustained by the court, to which decision of the court, excluding said act as evidence, the counsel for the claimant except, and pray that this their bill of exceptions may be signed, sealed, and made a part of the record in this case, which is ordered accordingly.

The counsel for the United States offered in evidence, in this case, various documents: all of which are filed herein; and Antonio Alvarez and George I. F. Clarke, witnesses heretofore sworn herein, were on this day again called by the counsel for the claimant, examined, and their testimony taken; and the evidence in this case, as well on the part of the said claimant, as on the part of the United States, being concluded, this cause was submitted to the court for its decree therein, on the written argument of the counsel on both sides, being filed herein.

Evidence and testimony offered and read in this cause, at the hearing thereof, and numbered from one to seventeen, inclusive, viz:

No. 1.

Offered and read by claimant.

Being translation of the original certified copy, by Thomas de Aguilar, of the memorial and grant in this cause, and its admission as evidence objected to by the counsel for the United States, as herein before appears.

Memorial for Grant.

TRANSLATION.

PETITION.

His Excellency the Governor:

Isabel Wiggins, an inhabitant of the town of Fernandina, with the greatest respect appears before your Excellency and states, that she has never importuned the attention of the government with petitions for lands, as she procured to support her family with the fruits of her industry, in this town; but owing to the dimunition of trade, she considers that she will have to devote herself to the pursuits of the country, and wishing to establish herself on the eastern side of the pond of St. George, she supplicates your Excellency to be pleased to grant to her three hundred acres in the said place, as she has five children and five slaves, with herself, which favor she begs of the just administration of your Excellency.

Fernandina, 1st August, 1815.

ISABEL WIGGINS.

Grant.

DECREE.

St. Augustine, 6th August, one thousand eight hundred and fifteen.

The tract which the interested party solicits is granted to her, without prejudice to a third party, and for the security thereof let a certified copy of this instance and decree be issued to her, from the secretary's office.

ESTRADA.

Certificate of Aguilar.

CERTIFICATE.

I, Don Tomas de Aguilar, sub-lieutenant of the army, and secretary of the government of the place and province of East Florida, for his majesty, do certify that the preceding copy is faithfully drawn from the original which exists in the secretary's office, under my charge, and persuant to the order I give the present, in St. Augustine of Florida, on the sixth of August, one thousand eight hundred and fifteen.

TOMAS DE AGUILAR.

St. Augustine, 28th May, 1831.

I certify that the preceding is a correct translation of the Spanish document annexed.

A. GAY,
Translator and Interpreter
of the Superior Court.

St. Augustine, 23rd July, 1833.

I certify that I have examined the preceding translation and find it to be a correct translation of a memorial and decree in the Spanish language, of a concession of land made to Isabel Wiggins, as certified by Thomas de Aguilar, and dated 6th August, 1815, and marked A.

JOS. S. SANCHEZ,
Translator & Interpreter
Superior Court, E. D. F.

No. 2.

Offered and read by Claimant.

Objected to by United States counsel, as herein before appears.

Certificate and plat of Survey.

TRANSLATION.

I, Don Jorge Clarke, lieutenant of militia, of St. Augustine, of Florida, captain of the northern district, and surveyor general of the province, by appointment of the government thereof, do certify that I have measured and delineated to Isabella Wiggins, three hundred acres of land, on the east side of the pond St. George, which were granted to her on the sixth August one thousand eight hundred and fifteen; and they are conform to the following plot, and the copy thereof which I keep.
St. Augustine, 23rd March, 1821.

[See original, page 34.]

JORGE I. F. CLARKE.

St. Augustine, 28th May, 1831.

I certify that the preceding is a correct translation of the Spanish document annexed.

A. GAY.
Translator and Interpreter
of the Superior Court.

No. 3.

Being the Testimony of Witnesses taken in this case, in open Court.

SUPERIOR COURT, *East Florida.*

July Term, 1833.

ELIZABETH WIGGINS
vs.
THE UNITED STATES OF AMERICA. } Land Claim 300 acres.

July 20th, 1833.

Testimony of Antonio Alvarez.

Antonio Alvarez, keeper of the public archives, sworn as a witness in open court on behalf of the said claimant, states, that his age is forty-two years, and was born in this city, and that he has constantly resided here, and has sometimes been abroad, but considered this his place of residence; was absent at one time for eighteen months. Witness states that he was employed as a clerk in the government secretary's office here, during the Spanish Government, from the year 1807 till the year 1821, during which time he was absent twice, once in 1809 & 1810, and at another time in 1814 & 1815. Witness states that the government secretary's office was kept in 1807, '8, & '9, by one Juan de Pierra, and after that time by Thomas de Aguilar, who continued at the head of that office till the cession of this country to the United States. Witness states that persons wishing grants of land from the Spanish Government, presented a memorial to the governor, and he decreed on the memorial and that decree of the governor was filed in the office of the government secretary, and constantly retained there. Witness states that when the decree of the governor ordered a royal title to be issued, the decree was transferred to the escribano's office, but when the decree did not order a royal title to be issued the decree remained in the government secretary's office; and in either case the grant remained in the possession of the government. Witness states that the evidence given to the grantee, on the making of a grant, was a certified copy of the decree, or of the memorial and decree, by the government secretary. Witness states that to obtain a royal title a second memorial and decree was necessary, which went into the escribano's office, in whichoffice royal titles were made

Witness states that it was one of the ordinary duties of the government secretary to make certified copies of memorials and decrees, which copies were made for the use of the parties. Witness states that it was generally the case that the decree of the governor directed a copy of the decree and memorial to be made, for the use of the party, it was not always the case, but it was generally done after Governor White's time. Witness states that according to the usage and practice of the Spanish Government, copies made by the government secretary and certified by him, would be received as evidence of title, in the Spanish courts of justice; in speaking of these copies, witness has reference to copies made in the government secretary's office, which are not called duplicates, but copies. Witness states that these certified copies of the memorial and decree were made immediately on the making of the grant, and delivered to the party when he called for them. Witness states that it was not the practice of the government secretary to annex seals to his certificates; the escribano always affixed a seal to his certificate, which was made with a pen, and the secretary of the government had no such seal to his certificate. Witness states that he is well acquainted with the hand writing of Thomas de Aguilar. Witness states that on the transfer of this province from Spain to the United States, the papers in the offices of Mr. Aguilar, the government secretary, and Mr. Entralgo, the escribano, were taken pessession of by the government of the United States. Witness states that according to the usage of the Spanish Government, the parties had no right to the original title papers, they remained under the charge of the proper officers.

Examined by United States Attorneys.

Witness states, that he does not recollect of a certified copy of a grant being received in evidence in a Spanish court of justice, where the original was not on file in the proper office; and from his knowledge of the practice of the government, he does not believe that such copy would be received in evidence in a Spanish court, unless the party could prove that the original was in the office at the time the copy was made. Witness states, that he does not know that he ever heard of a copy *of a copy* of any document being received in evidence in a Spanish court of justice; it might depend upon some circumstances, however, which might alter the case; witness believes that a copy of a copy properly authenticated and regularly filed in the proper office, would be received in evidence. Witness thinks, that he has seen the copy of a copy, where it was regularly authenticated received in evidence in a Spanish court; for instance, where the copy of a power of attorney, executed in the Havana, was filed in the escribano's office here, a copy of that copy would be received in evidence in any court of the province, and the impression of the witness is that he has seen such copies received in evidence in the court of which the escribano kept the papers; and there was no office in which judicial proceedings were kept, but the escribano's office. Witness states that it is his belief, that, if it was known, that there

was no original of this power of attorney in the Havana, that this copy of the copy would not be received in evidence, unless the party could prove that at the time the copy was made, the original was in the proper office.

Examined by Claimant's Counsel.

Witness states, that he considers a certified copy by the government secretary, as evidencing whatever was contained in that copy, and that he understands the certificate of the government secretary as evidencing all the facts to which it certifies. Witness states, that according to his understanding of the Spanish law in this province, the certified copy by the government secretary was evidence of the memorial and of the decree of the governor as set forth by such certified copy; and that, if the government secretary's office here had have been burnt, these certified copies of the government secretary, would have been received as evidence of the party's right to the land granted. Witness states, that he considers that according to the Spanish law, the certificate of the government secretary would be received in all the the courts as evidence of the facts contained in it. Witness states, that if the original memorial and decree had been in any manner lost or destroyed, or abstracted from the office, that he considers that a certified copy by the government secretary, would be received as evidence of the making of the memorial and decree; and that he means the certified copy given to the party at the time of making the memorial and grant, and before the loss of the originals, while he had them to make the certified copies from.

Witness states, that the papers in the secretary of the government's office at the time of the cession, were taken forcibly by a person sent by the American commander here, whose name he does not recollect; they were taken from the secretary's office in the governor's house; that after they were thus taken, he believes that they were sometime at the old custom-house, and supposes some person had charge of them while there, but don't know what person. Witness thinks there was a commission appointed to examine these papers, and that Mr. Lynch, Mr. Reynolds, and he believes, Mr. Anthelan Gay, were on that commission. Witness thinks five persons constituted that commission, does not remember the names of the others; that the object of that commission, as witness understood, was to select the papers which according to the treaty, the American Government claimed; that these papers, after they were taken from the custom-house, were put into an office in the lower part of the building now occupied as a court-house, and were kept there by a Mr. Law. Witness does not know how Mr. Law kept these papers; don't remember to have seen them about the floor; was not in Mr. Law's office much; from Mr. Law's these papers went into Mr. Tingle's possession, from Mr. Tingle's possession to Mr. Reynold's, from Mr. Reynold's possession to Mr. Murphy's, and from Mr. Murphy's possession to that of the witness, as keeper of the public archives. And that some of these papers while in the possession of Mr. Reynolds, were delivered to Dr.

Gibson and Dr. Simmon's. Witness states, that a number of boxes of papers belonging to the archives, were delivered to the witness as keeper of the public archives by the United States marshal for this district; there was an inventory of these papers delivered by the marshal, made by Mr. Reynold's and witness, and he does not know whether that inventory contained all the papers in those boxes or not.

Witness states, that he believes that the original memorial and decree to Elizabeth Wiggins in this case, is not now to be found in his office as keeper of the public archives.

Examined by United States Attorneys.

Witness states, that where there was no original grant to be found, a certified copy would not be received in evidence, unless the loss of the original was proved or accounted for. Witness states, that he was a clerk in Mr. Aguilar's, the government secretary's office, and had access to the papers in that office, and has searched for papers in that office when he was so directed by the secretary, and found the papers in good order and carefully preserved. Witness states, that it is not within his knowledge, that any original grant or concession was withdrawn from the proper office of the archives during the Spanish Government. Witness has seen some originals out of the office of the public archives since the change of government, but does not know how they got out, or that they were ever in the office of the archives; and some of those originals are now on file in the office of the public archives, having been deposited there by the register and receiver, before whom they were filed by the parties. Witness states, that there are one or two books in the office of the archives of the proceedings of the first commissioners appointed to receive these papers; and it is the impression of the witness, that these commissioners did not make a list of the grants received by them, but he thinks that they made a list of the bundles received by them. Witness states, that when these papers were delivered to Mr. Reynold's, he believes that there was a list of the memorials and grants of land made.

Examined by Claimant's Attorney.

Witness states, that these papers came into the possession of Mr. Reynold's in 1823, Mr. Reynold's was appointed keeper of the public archives by the governor, or governor and legislative council that met at Pensacola in 1822, and Mr. Reynolds on his arrival from Pensacola, immediately took possession of these papers, and the impression of the witness is, that he, Mr. Reynolds, received these papers from Mr. Tingle; they have already been in the possession of both Mr. Law and Mr. Tingle. Witness states, that these original grants which he has spoken of as being deposited in his office by the register and receiver, ought to have been in the government secretary's office, it was the usage of the Spanish Government to file them in

that office. Witness states, that he does not recollect of any case in which a certified copy made by the government secretary was ruled out by a Spanish court, on a suggestion that the original was not in the proper office. Witness states, that certified copies of memorials and decrees were given to the party as evidence of his grant.

Examined by United States Attorney.

Withess states, that he does not recollect of any case having occurred, it which it was decided, that a certified copy made by the government secretary was ruled out by a Spanish court on a suggestion that the original was not in the proper office; does not recollect of any such case occurring. Witness states, that he does not recollect a case in which a copy was offered in evidence where the original was was not in the proper office.

JULY 26th, 1833.

Antonio Alvarez again called and examined by claimant.

On the witness being requested to refer to the original certificate of Aguilar, attached to the copy of the memorial and decree in this case, and brought into court by the said witness under a subpœna *duces tecum*, and state whether the said certificate is not in the usual form of such certificates, the witness answers, it is.

And on further inquiry being made, the witness states, that the signature, "Tomas de Aguilar," attached to the said certificate, is in the handwriting of Thomas de Aguilar, late secretary of the Spanish Government in this province.

Question. Has or has not application been made at your office by Elias B. Gould, Esquire, to know whether the original concession in this case, was in the office under your charge as keeper of the public archives of East Florida, and if so, when?

Answer. Mr. Gould has made application to me, a few days since.

Question. Did you or not on this application search for the said original in your office?

Answer. I did.

Question. Did you find it?

Answer. I did not find it.

Question. Did you so inform Mr. Gould?

Answer. Yes.

Question. Was or was not the certified copy of the original concession now exhibited to you, brought into this court from your office as keeper of the public archives on a subpœna *duces tecum* therefor?

Answer. Yes, it was.

Question. Be pleased to state, how the said original certified copy came into your office as keeper of the public archives?

Answer. It was delivered to me by the register and receiver, who acted as land commissioners at one time, with the other papers relating to private land claims.

Examined by United States Attorneys.

Question. Do you know from whom the register and receiver received that document?

Answer. I do not know.

Question. Have you said on your former examination in this case, that you were a clerk in the same office with Mr. Aguilar at the time of the transfer of this province to the United States, and for many years before that time. Do you recollect to have seen or heard of the original concession in this case before the change of government?

Answer. I do not recollect.

Examined by the Court.

Question. What proceeding was called an expediente? Was no particular proceeding called technically expediente?

Answer. An expediente was any proceeding which was done in writing, if there was more than one document of any paper, it was called an expediente; sometimes they were called autos, which, I believe, means no more than the proceedings of a law suit.

Question. What was the autos of which you speak?

Answer. The proceedings in a law suit were called autos; any other proceedings were called expediente.

Question. What was diligentia?

Answer. Diligencias was where a party wanted to prove any thing. I think deligencias and expediente were very much alike. I should in speaking Spanish consider them as synonymous.

Question. What was the meaning of the prayer sometimes preferred in Spanish times, that the proceedings be had and taken in continuation?

Answer. A document made in continuation, was merely that the document should be continued on the same sheet of paper?

Question. What validity ascribed to papers or documents in continuation?

Answer. I do not know that any particular vilidity was given to a document made in continuation, it might sometimes be done at the request of the party; I don't recollect any case in which a party, where the design was to establish a copy instead of the original, prayed that the copy be taken in continuation of the original.

Examined by Claimant.

Question. Are there not now in your office, as keeper of the archives, many grants or concessions; which you have seen as such keeper of the archives, but which you do not recollect either to have seen or heard of in Spanish times?

Answer. I suppose there must be many; I cannot recollect the fourth part of them; it is impossible, where there are such a large number of grants, to recollect either the names of the grantees, or the quantity of land granted.

Question. Was or was not an expediente record proof the proceedings contained in it?

Answer. Certainly; all documents in the office prove themselves.

Examined by the Court.

Witness states that there did not come into his hands, as keeper of the public archives, any list or index of the grants to land made here by the Spanish Government; there was a list made by Mr. Reynolds, but it contained nothing more than the names of the claimants without mentioning the number of acres. Mr. Reynolds was keeper after Mr. Law. Witness states that he believes that there was a list of the bundles of papers in the Spanish archives, made during the Spanish Government; but witness has not seen that list since the transfer, and don't know what has become of it. Witness states that when a party got a decree for a royal title, he carried it to the escribano, and the escribano drew out the royal title in a book, and the Governor signed it, and that was the original. Witness states that the memorial of a party praying for a royal title, together with the certificate of concession given by the secretary of government, the survey and plat of the land, the original proof of having complied with the conditions of the concession, and the original decree ordering a title or patent to be issued in favor of the grantee, was called the expediente; which expediente remained on file in the office of the escribano. Witness states that the escribano had no separate books in which he noted the royal titles that were issued, from those in which they were contained; at every ten sheets of paper of the small books which he first made, there was a blank sheet left, on which the escribano made an index of the grants which preceded that sheet; and when he had enough of these sheets or small books, they were bound into large books, and these indexes were taken out and a general index made to the whole book. Witness states that there was no book in the secretary of the government's office, in which a note was made of the concessions that issued; they were merely filed away in his office on the loose sheets on which they were made, and were filed away in bundles alphabetically and without any list.

Examined by U. States Attorneys.

Witness states, that where concessions were made under the royal order of 1790, the Governor generally required proof of the compliance of the conditions before he gave a royal title. Witness states, that he thinks it was considered that a person had no right to obtain the royal title, though he had a claim to the land, till he complied with the conditions, unless the party could show that he could not comply with the conditions of his grant from disturbance in the country, Indian wars, or something of that kind; it was generally considered that a person had to comply with the conditions of his grant before he could obtain a royal title.

Question. Was not the legal estate or title to the land, conveyed to the claimant by the royal title issued from the office of the escribano?

Answer. Yes.

Question. Was there any other mode by which the title from the king was conveyed in full property, by the govenors of this province, to the claimants of lands?

Answer. No other mode, except in some cases I have alluded to before, where the govenor has given the party permission to sell his land. Witness thinks that although a party had not obtained a royal title, if he had complied with the conditions of his concession he would have a right to the land; and if a party were to adandon the land, after he had complied with the conditions, he would be entitled to it, though he had obtained no royal title.

Question. You have said that you believe the claimant would be entitled to the land, if he had complied with the conditions of his concession, though he had not obtained the royal title; what other evidence could he have of his right to the fee simple in the land, except the royal title?

Answer. The evidence of having complied with the conditions.

Question. Would the claimant, in such a case as the one mentioned in the last question, be required to have the proof of his having complied with the conditions of his concession filed in the proper office of the government?

Answer. If the claimant made the proofs, they would be filed in the proper office, and he would receive a royal title. I have never known a person that made these proofs, except on application for a royal title.

Question. Were not all deeds of conveyance of land, from one individual to anothor, drawn out on the protocol of the notary of government; and did not the notary always refuse to allow the party to sell until he had procured a royal title for the land?

Answer. Yes, he would refuse to let the parties sell; he would refuse to make the deed; the parties might agree between themselves, and pass receipts, or in any other manner, and run the risk of being bound to prove that the conditions of the grant had been complied with. After a party had complied with the conditions of his grant, I believe that he had a complete right to the land, though he had obtained no royal title.

Question. Where a party failed to comply with the condition of his concession, could not the government grant the land to another individual; and if a royal title were given to the last individual, would not the claim of the first person who had failed to comply with the conditions, be entirely defeated?

Answer. Certainly.

Question. Were not the regulations of Gov. White, on the subject or granting lands under the royal order of 1790, generally observed in this province?

Answer. They were, except in some instances, by Gov. Kindelan, and since Gov. Kindelan.

The counsel for the United States objected to all the testimony of this witness, relating to the manner in which the papers in the office of the archives were kept, and objection over-ruled by the court.

Testimony of Joseph S. Sanchez.

JULY 20th, 1833.

Joseph S. Sanchez, sworn as a witness in open court, on behalf of the claimant: states, that he is a native of this country, and has constantly resided here. Witness states, that the usual mode, under the Spanish Government here, for a party wishing lands, was to petition the governor, setting forth the number of their family; this was under the royal order of 1790, and upon that memorial or petition, a decree of the govenor was made, either granting or rejecting the petition; and that decree was usually made in the office of the secretary of the government. Witness states that the original memorial and decree were deposited in the secretary's office, and that it was the general usage of the government, that the memorial and decree should remain in that office. Witness states, that the evidence given to the party of his right to the land granted, was a certified copy of the memorial and decree made by the government secretary. Witness states, that according to the usage and practice of the Spanish Government here, that certified copies was received as complete evidence of the party's right to the land, and that the grant was made; and witness believes that that certified copy would be considered by the Spanish tribunals here, as equivalent in all respects to the original. Witness states, that this certified copy was always considered as sufficient authority for the surveyor general to lay off the land granted.

Witness states, that he was here in 1821, at the time of the cession of this country to the United States, and that he has not been away from here, except once that he went to the Havana, and several times to Tallahassee as a member of the legislative council, and that he was here in 1822 and 1823. Witness states, that at the time of the cession of this country, there was a good deal of fear that the original papers might be lost; the United States took possession of those papers in a very tumultuous manner. Witness states, that he recollects that Mr. Law had charge of these paper, and thinks he took charge of them a short time after they were taken out of the hands of the Spanish authorities; they were kept by Mr. Law in the hall, under the room, now occupied as a court-room; and witness does not recollect that they were kept any where else by him. Witness states, that he was in the habit of going into the office of the archives, while Mr. Law had charge of it, for four or five months, morning and evening. Witness had an acquaintance in that office; a Mr. Cavedo. Witness thinks there were a few temporary shelves put up in this room spoken of by him, but does not know whether these shelves were sufficient for all the papers in the office or not, there were some bundles of papers on the table, and some in some

boxes in the room. Witness did not think at the time that these papers were carefully kept. Witness has seen papers blowing from the bundles over the floor of the room; many of the bundles of papers were kept loose. Witness states, that he don't know that Mr. Law was at all precise as to the persons he permitted to come into the office. Witness saw a good many persons in the office. Witness states, that he has been several times in the office and found neither Mr. Law or his deputy there, and the windows and doors both open. Witness states, that this office was kept in such a manner, that nothing could be more easy than to abstract or take from it documents, if persons felt disposed to do so. Witness says that this office was kept very carelessly, very much so indeed. Witness states, that the manner in which this office was kept, was a matter of anxiety and alarm to the inhabitants of this place; and he has heard persons, interested in land claims, express their alarm that their papers might be lost from this office. Witness states, that he cannot say by what authority these paper came into the possession of Mr. Law, whether they came into his possession in virtue of his office as alcalde of this city, or not; and has never heard that he was under any pecuniary responsibility for the safe keeping of these papers. Witness states, that he thinks a Mr. Penn, who is now dead, had something to do with these papers, but whether as Mr. Law's deputy or not, he does not know. Witness knows that these papers were in the possession of Mr. Geo. Gibbs and Mr. Tingle together, at one time, and believes that neither Mr. Gibbs or Mr. Tingle understood the Spanish language. Witness states, that the original memorials and decrees were kept in separate sheets of paper, filed away in bundles, in which way he thinks they are kept now.

JULY, 22nd, 1833.

Joseph S. Sanchez, again called on this day, and examined by counsel for claimant, states, that he thinks that in one or two instances he has seen persons searching for papers in the office of the archives, while that office was kept by Mr. Law, which persons were not in any manner connected with the office, and that during the time these persons were thus searching, neither Mr. Law or his deputy were present. Mr. Medicis, who is now dead, was one of the persons he saw thus searching for papers in this office. Witness states that he believes that concessions and decrees for land were kept in the Spanish Government secretary's office, upon loose sheets of paper, filed away in bundles. Witness states that he thinks that it would have been perfectly easy for these persons that were examining the papers in Mr. Law's office, to have abstracted them from that office, if they thought proper; there was nothing to prevent it.

Examined by U. S. Attorneys.

Witness states, that his opinion that a certified copy by the government secretary would be received by the Spanish courts as full

evidence, is founded on his knowledge of the usage of the Spanish Government. Witness knows nothing about Spanish law. Witness states that persons wishing to obtain royal titles for their lands, usually petitioned the governor, and attached to their petition a certified copy by the government secretary, of the memorial and decree; and this is the reason that the witness thinks that this certified copy would be received by the Spanish Government as full evidence of the grant, and I suppose it was upon this evidence the governor usually made the royal title; and it is from this practice that witness believes that a certified copy would be received as evidence. Witness states that he does not know of an instance, nor has he heard of one, where a royal title has issued upon the certified copy of the concession, by the government secretary, where the original concession was not on file in the proper office. Witness believes that where individuals wished to transfer papers from one part of the Spanish dominions to another, from fear of losing them, would deposit the originals in some public office, by permission of the government, certified copies of which were received as evidence in any other part of the Spanish dominions, and witness does not know whether that certified copy would be received in evidence, where it was known at the time that the original was not in the proper office, supposes it would not be received in evidence.

Witness states that he thinks that he has picked up in Mr. Law's office some grants of land which were blown from the bundles in the office across the floor. There were some bundles of papers in some boxes, which were without tops, but the principal part of the papers in this office were kept on open shelves. When witness speaks of the principal part of the papers, he does not mean the principal part of the grants, but the principal part of the bundles of paper in the office. Witness does not know whether all the papers received from the Spanish Government were in this office of Mr. Law or not, but he did not think that there were as many papers in this office, as he had seen in boxes when they were taken from the Spanish Government. Witness saw two boxes with papers in Mr. Law's office; these boxes were about 4 feet in length, and about 3 feet wide, and 2 feet high—these boxes were not quite half full of papers. Witness can't say that the grants and concessions in this province would contain more paper than he saw in those two boxes. Witness did not see these papers that he found on the floor of Mr. Law's office, blown from the shelves, there was nobody in the office when he found them, he merely found them on the floor, and supposed they were blown from the shelves, but they may have been blown from the table. Witness states that the grants of land which were in this office, were in bundles, but the strings to some of the bundles were loose, and the papers perfectly unconfined. Some of the bundles had been opened in looking for papers, and had not been tied up again—Witness saw them in that situation several times; witness was in this office every day; witness does not remember to have seen Mr. Law in the office, except when he came to sign papers which had been copied by his clerk, Mr. Cavedo; witness has been in the

office several times, and found neither Mr. Law or Mr. Cavedo there. Witness says that he don't recollect whether Mr. Cavedo was in the office at the time he picked these papers off the floor, he has several times picked up papers off the floor when Mr. Cavedo was in the office, and once picked up papers from off the floor when no one was in the office; and sometimes when he came into the office and found papers throwing about in this way, Mr. Cavedo was there. Witness states that when he went into Mr. Law's office and found no one there, he did not remain there long before Mr. Cavedo came in—some 8 or 10 minutes; and witness supposes that the way that the office came to be alone, was, Mr. Law would come into the office not more perhaps than once a week, to sign copies of papers that had been made out by Mr. Cavedo, and having signed the copies, would retire, leaving the door and windows open. Witness states that the windows were used as much as a place of entrance as the door, and witness has entered the office through the windows very frequently; the door was in the yard, and people did not take the trouble to go round to it. Witness found the door closed sometimes, but it was barely pulled to. Witness states that there were two windows in this office that opened into the street, and the door from this office opened into the yard under the piazza. Witness states, that he thinks when Mr. Cavedo left the office, to be absent for any length of time, he always fastened the door and windows as well as they could be fastened, and witness himself has assisted him to do so. Witness thinks that the door and windows of this office could not be securely fastened; the window shutters were very old, and any person could have pulled them open by putting their fingers between the shutters. Witness states that he does not know that these papers that he saw blowing about the office, were papers that Cavedo had copied; they were such papers as he usually copied; they might have been papers which he copied, or they might have blown off the shelves. Witness states that he does not know that the Mr. Medicis that he saw in Mr. Law's office was an associate of either Mr. Law or Mr. Cavedo; he does not know that he was acquainted with Mr. Law, and was not intimate with Mr. Cavedo. Witness don't know what he was searching for.

Examined by Claimant's Attorney.

Question. You said that the certificate of the government secretary, attached to the memorial for a royal title, was the evidence on which such royal title was usually given—have you not also understood that it was the evidence on which the land was surveyed to the grantee by the surveyor general?

Answer. The surveyor general, on the presentation of this certificate, always made the survey, and that certificate was evidence to him that the land was granted.

Question. Do you not understand that the certificate of the government secretary was full proof of all the facts which such certificate set forth?

Answer. Witness supposes so; it was always taken and believed so.

Question. Do you not understand and mean to testify, that the certificate of the government secretary was proof that the memorial was presented and the decree passed by the governor, as set forth in the copies certified by the secretary?

Answer. Witness believes they were always so accepted by the government; he never heard it questioned.

Question. Was not such certificate, evidence of the original memorial and grant?

Answer. Witness says certainly.

Question. Would not such certificate, in your judgment, and according to the usages of this province in Spanish times, be evidence or proof that the original memorial and decree were in the proper office at the time the certificate was given, though at some subsequent period they had been taken from it, or could not be found there?

(This question objected to by the counsel for the United States, and objection over-ruled by the court.)

Answer. Witness says he thinks they would, according to what he knows on the subject; he thinks they were usually taken.

Question. Had the grantee any right to the possession of, or any control over, the original?

Answer. Witness says no.

Question. Could a certified copy of the original be obtained at any time from the secretary's office, so long as that original remained in that office?

Answer. Witness says yes, he could get as many copies of the originals as he pleased.

Upon enquiry, and on looking at the certificate of Thomas de Aguilar, attached to the memorial and grant in this case, witness says that the certificate of Aguilar, attached to this grant, is in the usual form of such certificates.

Examined by U. S. Attorneys.

Question. Do you recollect a single instance, in this province, while under the Spanish government, in which a certified copy of a concession was received in evidence, and taken as proof that such a concession was made, when no original concession could be found in the office from which the copy purported to have been made?

Answer. Witness says they may have occurred; does not know of any of his own knowledge; witness never heard of an instance where the originals were enquired after, where the certificate was exhibited.

Question. Do you recollect any usage of the Spanish Government, by which such a certified copy, under the circumstances stated in the last preceding question, could have been received in evidence?

Answer. Witness says that he does not recollect any usage on the subject, except the usage as already stated, of receiving them in

evidence. Witness adds, that he supposes that it was always taken for granted, that where the certified copy was offered, the original was in the office; and that he knows of no other instances where a certified copy was received in evidence, except those where they were presented to the surveyer general, or to the governor, on application for royal titles, and they were taken by them as evidence, without further enquiry. Witness states that it is his opinion, that where it was known that there was no original in the office, this certified copy would be received in evidence, unless the opposite party could prove that it was a forgery. Witness does not remember of a single instance where a certified copy was offered, when there was no original in the office. Witness thinks a certified copy would be received, unless it was proved there never was an original in the office, or that it was a forgery. Witness is now speaking of his opinion of the usage of the province. Witness does not know that an instance has occurred, in Spanish times, where a certificate has been exhibited in evidence, that the opposite party has suggested that there had been no grant made. In Spanish times, the party alleging a forgery, was required to prove it. Witness states, that where a party brought suit upon his grant, alleging it to be good, and the opposite party denying that it was so, the party alleging that it was not a good grant, was required to prove that it was not so. Witness says that he is talking of what the usage would be; he has never heard of any such case, and that he never heard of any such litigation as that spoken of by him above, in Spanish times. Witness states, that the question never arose to his knowledge, whether a grant was in or out of the office, the certified copy always spoke for themselves. Witness states, that he does not recollect that he has ever heard of an original concession being lost, in Spanish times, from the archive office.

JULY 23d, 1833.

On the testimony of Joseph S. Sanchez being read over to him, he desired to explain and correct that part of it in which he is made to say "that he does not know whether the certified copy would be received in evidence, where it was known at the time that the original was not in the proper office—supposes it would not be received in evidence." And he now says, that his opinion is, that where it was known that the original never had been in the office, the certified copy would not be received in evidence; but the certificate would be prima facie evidence that the original had been in the office.

By the Court.

Question. Do you know of any case having existed under the Spanish government, where the certificate of the secretary was received as evidence, when it appeared that the original had never been in the office?

Answer. Witness says that he never heard of such a case, and does not believe that such a case ever existed.

The counsel for the United States objected to all the testimony of this witness relating to the manner in which the papers in the office of the archives were kept, and objection overruled by the court.

AUGUST 2d, 1833.

Joseph S. Sanchez again called on this day, and examined by counsel for claimants:

Question. Do you know where Lake George is situate?

Answer. I have never been there. I believe it is situated south and west of this place. I can't say how far distant it is from this place. I do not know where it is. It is on the river St. Johns, somewheres.

Question. Are you not able to state that it is up the river St. Johns, and a considerable distance south of Pálatka, and that it is in the neighborhood of Spring Garden?

Answer. I know that it is up the river St. John's, south of Palatka. I do not know how far it is from Palatka. I have never been in that section of country.

Question. Will you be pleased to state whether it is not south of the junction of the Ocklewaha with the St. Johns?

Answer. I can't say.

Question. Are you able to state whether or not it was considered unsafe to settle in that portion of this province, and around and contiguous to Lake George, in the years 1815 and 1816, and from that time till the transfer of the province to the United States?

Answer. Yes. It was generally believed unsafe to travel any where south and west of this place, before, and even since, the transfer of the country. I believe there was one or more prosecutions for murders committed, some time after the change of flags, by the Indians.

Question. Had not the attack of Gen. Jackson on the Indians, in 1817 or 1818, the effect of driving them in large bodies from the Alachua country towards the eastern part of the province, and especially to the banks of the river St. Johns?

Answer. Yes—they were driven as far even as St. Augustine.

Question. Was it or not the common report and understanding of the people of this part of the province, that from about the year 1816 to the time of the cession, the shores and neighborhood of Lake George were the places of especial and common resort by the Indians?

Answer. I don't know that it was more a place of resort than any other, even north of this place. I heard of Indians committing several murders about Flemming's Island, or in that vicinity somewhere.

Question. From what did the unsafe condition of this province result, in Spanish times?

Answer. It resulted from the frequent incursions of the people from the borders of Georgia, together with those on this side, and the unsettled state of the Indians, who were never controlled by the Spanish government at all, and who were always ranging through the province.

Question. Would negro property, particularly on small plantations and settlements on the river St. Johns, and especially high up the river, have been safe within the period you have spoken of?

Answer. They were not considered safe. I know of several cases where they were kidnapped by the persons I have mentioned in my preceding answer.

Examined by United States Attorneys.

Question. You have said it was dangerous to travel to the south and west of this, before the delivery of the province to the United States. Where there no persons settled in the country to the south and west of this previous to that time?

Answer. There were two or three people settled about Musquito, but they were obliged to pay pretty dear for it; they had to give the Indians presents every time they came down there, to keep them quiet.

Question. How long had those persons been settled there, and how long before the change of flags had there been any molestation of those persons by the Indians?

Answer. There were never more than four or five persons settled at Musquito. I don't know how long they were settled there; the old ones died off, and others took their places; and they were obliged to pass as Englishmen, to be allowed to stay down there by the Indians. These persons were always troubled by the Indians, who saved them the trouble of reaping all their crops, by stealing their corn and provisions.

Question. Were you at Musquito within the time you mention, or how do you know that the Indians committed the depredations you have stated?

Answer. I don't exactly recollect the first time I went down to that section of the country. I was down there once, when a party of Indians came to the house of Mr. Hunter, and they seemed to think that every thing belonged to them; even now, the Indians are sometimes in the habit of stealing provisions.

Question. Were the Indians more troublesome at the time you mention than they are at present?

Answer. Yes, I think they were.

Question. Is it not the character of the Indians to plunder the plantations whenever they have an opportunity?

Answer. I believe that is their general character; but they were in the habit of doing it more frequently in this section of the country,

because the inhabitants and Spanish government were not strong enough to keep them in subjection.

Question. You have said there were not settlers on the St. Johns river. To what part of the river do you intend to apply the remark?

Answer. On the south and west of Musquito. I mean to apply the remark to the river generally, on the east side, from its head down to the neighborhood of Picolata.

Question. What number of persons were there settled at Picolata?

Answer. I believe there were no other persons living at Picolata but Mr. Wanton and his family, and Mr. Rondon and his family. I believe there were no inhabitants then on that side of the river, till you got down to Judge Fatio's, and down to Julington neck, where there were a good many inhabitants settled.

Question. Do you recollect to have heard of any disturbance among those inhabitants, occasioned by the Indians, after the revolution of 1812 and 1813?

Answer. Yes—the Indians were always troubling them, and they are doing so now, killing their stocks, in the neighborhood of Picolata.

Question. Was there any other disturbance among them, other than you have mentioned?

Answer. I can't say. I have no recollection.

Question. Do you know of a single instance, under the Spanish government, of a white person having attempted to make a settlement on Lake George?

Answer. I can't say that I ever heard.

Question. Do you recollect to have heard of any person going to Lake George during the time the Spaniards remained in this country?

Answer. I don't know that I ever heard of any person going direct to Lake George. There were a few persons, not more than four or five, that were in the habit of travelling that country, trading with the Indians.

Question. Was not the whole country in the neighborhood of Lake George an uninhabited wilderness, during the whole period of the Spanish occupancy in this province?

Answer. I expect it was. No one would have gone there to settle, for they did not consider it safe to go there.

Question. At what time did the last revolution of the province terminate? and was not the country as tranquil from that time as it was at any other period; until the delivery of the province to the United States?

Answer. The revolution, I believe, terminated in the latter end of 1812, or in 1813—I do not recollect the time exactly. The country was never more untranquil than it was from that time till the exchange of flags: the country was more untranquil from that time till the change of flags than at any other time, by the incursions of those people he has mentioned from Georgia.

Question. Were the persons you have mentioned from Georgia troublesome to the Indians or to the Spaniards?

Answer. They were troublesome to both: they plundered and murdered the white population, as well as the Indians.

Question. Was the disturbance greater after the year 1815 than it had been before that time?

Answer. I think that it was. After the revolution, the country continued very disturbed till after the change of flags. I think it became more tranquil about a year before the change of flags; but not so tranquil as to induce persons to settle, till a few years after the change of flags.

Question. Did any person, without your knowledge, attempt to make a settlement at a distant and remote place, during the period from 1812 till 1821?

Answer. Yes; I think there were one or two attempts made to settle that part of the country: Arredondo attempted to settle the Alachua grant, and Joseph M. Sanchez attempted to settle at Dunn's Lake.—There may be others that I know nothing about.

Question. Did those persons make their settlements?

Answer. I think Joseph M. Sanchez did not succeed; and I believe the Arredondo's were four or five years in making a settlement —they had to make negociations with the Indians.

Question. What attempt did Mr. Sanchez make to settle at Dunn's Lake?

Answer. I believe he went out there, and took some negroes with him; but he was obliged to come back. I think this was just before, or immediately after, the change of flags. He did not abandon the land; he went there afterwards, and settled the place, and lived there five or six years, till he was taken sick, when he came to town and died.

Question. At what time did Mr. Sanchez make his settlement on Dunn's Lake?

Answer. I think the time when he first went out to Dunn's Lake was in 1817 or 1818, and the last time, when he went out to settle, and did effect a settlement, was after the change of flags—how long after, I do not recollect.

Examined by claimant.

Question. You said, in answer to an inquiry from the counsel for the United States, that there were no settlement except Indians on the river St. Johns, especially on the east side of it, above Picolata. Will you state the distance and direction of Picolata from St. Augustine?

Answer. It is directly west, about eighteen miles distant.

Question. Was not the province, and the Indians in it, particularly disturbed, after 1815, by the invasion of the province on the west by General Jackson, and at the St. Marys by General Gaines?

Answer. It was disturbed by the invasion of General Jackson, who drove the Indians down upon us; and they stole our property, and every thing else. I don't know how much the invasion of General Gaines troubled the country.

Question. Were not the Indians, by the force and fear of General Jackson, subsequent to 1815, driven in great numbers into and over East Florida, from the west of the Sawanee?

Answer. Yes, they were so, and even to St. Augustine.

Question. Were not the plantations at the south and west of St. Augustine, so far as they were established, after 1815 to the transfer, constantly liable to have their negroes kidnapped by the patriots from Georgia and the St. Marys?

Answer. There were some instances where they were taken, and I believe one or two instances where they were shot.

Question. Could not a person to whom a concession had been made, according to the practice and usage of the Spanish government, enter upon the performance of the condition of possession and cultivation at any period after the concession, provided the governor had not previously granted the land to another?

Answer. I believe they could—that is, if they had been disturbed at any time from going on the land, and if the governor had not granted the land to another person.

Question. Suppose a concession made upon head-rights; could not the grantee enter upon the land, for the purpose of cultivating it, at any time while it remained ungranted to another?

Answer. I don't know. It depended upon the will of the governor: some times he directed that the party should take possession within a limited time, and at other times he did not limit the time at all.

Examined by U. S. Attorneys.

Question. Were the Indians driven into this province by the invasion of General Jackson on the west, until the month of May, 1818?

Answer. I do not recollect exactly the time—it was some time in 1818.

Question. Did not the regulations and usage of this province require the grantee to take possession of the land granted, within six months after the date of the grant?

Answer. I never knew of any fixed regulation. The governor's will, I believe, was superior, or equal, to any regulation, and he directed, as he pleased, when the party should take possession of the land.

Question. When the governor published his regulations, were they not considered in force and binding on the inhabitants till he changed them?

Answer. I can't say that the governors themselves stuck to their regulations. They were made for the governor's regulation, and the people had nothing to do with them—the governor changed them whenever he thought proper.

Question. You say the people had nothing to do with the regulations published by the governors. Did they not obtain their grants under those regulations?

Answer. Yes, they did sometimes—sometimes native born Spanish subjects would apply to the governor for land, and he would refuse to grant it to them; that shows he did not mind his regulations, or that he considered himself bound by them.

Question. Do you know of any instance in which the governor made a grant contrary to the regulations? and if you do, please state the case.

Answer. I can't call any particular case to my mind just now. I do not recollect any particular case. I think the governor has granted lands to persons that had no slaves.

Question. Do you know of any other departure from the regulations than the one you have mentioned?

Answer. I don't recollect.

Examined by claimant.

Question. Did not the governors, agreeably to your understanding of the usage of this province, grant, or refuse to grant, lands for head rights, according to his own good will and pleasure?

Answer. I never knew of any other regulation, or heard of any other, than the governor's will. I never heard his power disputed.

Examined by U. S. Attorneys.

Witness states that he never heard that the Spanish governors of this province were controlled by any law in the granting of lands—they granted lands as they pleased. The governors of this province were governed by their will alone—they were generally considered supreme. Witness never heard any one doubt the power of the governor in any instance.

Examined by claimant.

Question. Do you or do you not mean, by your answer to the last preceding question, that their will was the supreme law of the province, and that no one in the province presumed to dispute it?

Answer. That's what I've said in my last answer.

Examined by U. S. Attorneys.

Question. Were not the governors of this province under the control of the laws of the Indies, and the royal orders of the king, in all matters relating to the granting of land, and did they not strictly obey those laws and royal orders?

Answer. From what I've seen of the books containing the laws of the Indies, I think the governors were not bound by them, or the royal orders—as I have known that the governors did not obey those laws; and I know many instances where the governor has refused to grant lands, when the parties were entitled to them under the laws of the Indies. I have known many instances, but I do not at this

time recollect them. Witness qualifies this answer by adding, the governors might have been bound by these laws, but they disregarded them in many instances.

Examined by the Court.

Witness states that he does not know whether regular reports of the transactions of the government in this province, during Spanish times, were sent to Spain at stated periods.

Examined by U. S. Attorneys.

Question. Have you any other reason for believing that the governors of this province were not bound by the laws of the Indies and the royal orders of the king, and that their will was the supreme law of the province, than you have given in your answer to the last preceding question?

Answer. He certainly could not be bound by any law, if he could arrest a person in the street, without telling him for what, and imprisoning him, and feeding him on bread and water, as he has done here; and nobody disputed his power here.

Question. Is it from your recollection of the fact that the governors of this province sometimes refused to grant lands to persons whom you thought entitled to them, and of their having persons arrested in the street, and put in confinement, without telling them the cause of their arrest, that you have formed the opinion that their will was the supreme law of the land, and that he was not always governed by the laws of the Indies and the royal orders of the king in making grants of land?

Answer. Yes—it is from the circumstance that his will governed every thing, and nobody disputed it.

Question. What general law of Spain, or royal order, did the governor violate in causing persons to be imprisoned in the manner which you have mentioned?

Answer. I never looked over the royal orders, or the laws of the Indies, till lately, and the opportunity I have had of seeing the orders is from translating papes from the archive office; and he was not at all times governed by them.

Question. Do you know that the governor was satisfied that the persons to whom you say that he refused to grant lands were entitled to grants of land, agreeably to the laws of the Indies?

Answer. He must have known that these persons were entitled to grants of land, as, the persons being native born citizens, the governor must have known these circumstances, and that they were entitled to grants of land.

The counsel for the United States objected to all the testimony of this witness in relation to the disturbed state of the country, alleging that the same is irrelevant, which objection was overruled by the court, and the said testimony admitted by the court.

JULY 23d, 1833.

Bernado Segui, sworn as a witness in open court on behalf of the claimant:

Question. Are you or not a native of East Florida, and have you or not resided the principal part of your life in St. Augustine?

Answer. Witness says, yes.

Question. In what manner, according to the usage and practice of the Spanish government, were concessions or grants of land applied for and obtained in East Florida?

Answer. Applied for by petition to the governor, and obtained by decree of the governor.

Question. What was done with the original memorial and decree, or concession?

Answer. Kept in the secretary of government's office.

Question. What evidence of the concession or grant was given to the party?

Answer. A certified copy of the original, by the secretary of the government.

Question. What was the purpose for which the certified copy of the concession or grant was given to the grantee?

Answer. To show that he had the grant, and to prove, in case of necessity, that the land was granted to him.

Question. Was or was not the certified copy of the concession or grant, full and complete evidence of the original, and that it was in the proper office at the time the said copy was made?

Answer. Yes, it was.

Question. Would or would not a copy of a concession or grant, properly certified by the government secretary, have been received by the courts of justice, and other authorities of the government, in Spanish times, as full and complete evidence that the original concession or grant had been made?

Answer. Yes, the same as if it was the original itself.

[The two last preceding questions were objected to by the counsel for the United States, and objection overruled by the court.]

Question. Was or was not the copy of an original concession, certified by the government seecretary, of the same force and effect as was the copy of any act or deed certified by a notary of the Spanish government, according to your understanding of the usage of the Spanish Government here?

Answer. Yes, the same.

Question. Suppose it should have appeared, in Spanish times, that the original of a concession or grant was not in the office at the time the certificate was offered in evidence—what, in such a case, would have been the effect of the certified copy, according to the usage of the province?

Answer. It would have been received as prima facie evidence, until it was proven that no grant was ever made.

Question. Have you or not had a great deal to do with the public offices in Spanish times?

Answer. Yes, I have.

Question. Have you or not held public offices under the government in Spanish times?

Answer. Yes, I have.

Question. Are you not now the postmaster of this city?

Answer. Yes, I am.

Question. How many years have you been so?

Answer. I have been so over three years.

Question. Were you not one of the commissioners on the part of the United States, at the treaty of Moultrie with the Florida Indians in 1823?

Answer. Yes, I was.

Question. Was or not the law pursued and practised by you, as your profession in East Florida, prior to its cession to the United States?

Answer. I was a clerk in the notary public's office, and pursued the practice of advocating causes, but I was not a professional lawyer.

Question. Who was the government secretary of this province in 1815.

Answer. Thomas de Aguilar.

Question. How long had the said Thomas de Aguilar been secretary of the government of East Florida before that time, and how long after it?

Answer. I can't tell how long previous, but he was secretary till the change of flags, and I think he was secretary from the year 1809 or '10.

Question. Was it or not, one of the especial duties of the government secretary, to give out certified copies of concessions or grants of land from his office?

Answer. Yes, it was.

Question. According to the usage of the province, was not the certified copy by the government secretary given to the grantee, for the especial purpose of securing to him evidence of his grant?

Answer. Yes, that was the object.

Question. Are you or not, acquainted with the hand writing of Thomas de Aguilar, late secretary?

Answer. Yes, very well.

Question. Refer to the certified copy of the concession for the lands in question in this case, here exhibited to you, and state whether the signature "Thomas de Aguilar," thereto subscribed, is or not in the hand writing of said Thomas de Aguilar, late secretary to the provincial government of East Florida?

Answer. I believe this to be his signature; I have no doubt of it.

Question. Is the certificate of the government secretary attached to the document shown to you, [the certificate of the concession or grant on trial, but which has not yet been offered in evidence,] in the usual form?

Answer. Yes, it is, according to the regular form and usage.

Examined by U. S. Attorneys.

Question. How do you know that the certified copy of a concession would have been received as evidence of the existence of the original in the proper office, under the Spanish Government?

Answer. Because I have seen it received many times, when I was clerk in the escribano's office.

Question. In what manner, and under what circumstances, were they received?

Answer. As a voucher, in evidence to the facts set forth in a memorial.

Question. What was the nature of the memorial to which you allude?

Answer. I allude to any kind of a memorial; any facts that might be set forth in a memorial, to be proved by the certificate of any legal officer.

Question. Do you recollect any case where a certified copy of a memorial and decree for land was ever received in evidence in the escribano's office when it was known that there was no original of said decree and memorial in the proper office of the government?

Answer. I do not know of any such case.

Question. Do you remember any case under the Spanish Government, in which a paper certified by a secretary of the government as a copy of an original concession, was received in evidence and taken as proof, that an original had existed, when no such concession could be found in the office from which the copy purported to have been taken?

Answer. I do not recollect any case.

Question. If you remember no case in which a certified copy of a concession was received, under the Spanish Government, as evidence that an original had existed, when no such original could be found in the proper office, how do you know what was the usage in such a case?

Answer. I do not remember any such case.

Question. Do you know of any such usage?

Answer. I do not recollect of any such usage; whenever the certified copy by the secretary was offered in evidence, it was always considered that the original was in the office; and if there was no original in the office, it was a fact to be proved.

Examined by Claimant.

Question. If at the time of offering, to use as evidence, a certified copy of a concession or grant, made by the Spanish government secretary, it should have been suggested that there was then no original in the office, would that invalidate such certificate made at a prior date?

Answer. No, it would not have invalidated it at all.

Examined by U. S. Attorneys.

Question. Did you ever know such a case as the one mentioned in the last question?

Answer. I recollect one or two instances. I do not remember the names of the parties to them; one of them was in the proceedings of a civil law suit, and I suppose the proceedings of the case are on file in the office of the public archives; all the proceedings in Spanish Courts were in writing.

Question. In what office did they occur, and at what time?

Answer. During the time I was in the office of the escribano, who was clerk of the court, these cases occurred. I was in the escribano's office from the year 1800 to 1815. I do not recollect the case, or the names of the parties.

AUGUST 3d, 1833.

Bernado Segui again called and examined by counsel for claimants.

Question. Will you state, if you know, where Lake George is situated?

Answer. I have never been out of this city that way. I always heard that it was on the river St. Johns, about fifty miles southwest from this place.

Question. Will you state whether the country at, and in the neighborhood of Lake George, was considered a safe and secure place for a small settlement, at any time between 1815, and the transfer of this province to the United States?

Answer. It was not considered safe, I believe.

Question. Do you know that the office of the archives was in charge of Edmund Law, sometime after the transfer of the province?

Answer. Yes.

Question. Are you able to state how he came in charge of it; whether he gave security for faithfully keeping it; whether he was under any oath of office?

Answer. I don't know.

Question. Are you not the county register; and if so, state whether you know of any bond given, or record of any oath of office, taken by said Law, in your office?

Answer. Yes, I am the clerk. I have not seen any bond given by, or record of any oath of office taken, by said Law, in my office.

Question. Will you be pleased to state whether said Law was not put in possession of said archives by Mr. Worthington, then secretary of East Florida?

Answer. I think he was so. I heard so.

Question. If you know, will you state how the office was kept, while it was under the charge of Mr. Law?

Answer. I have never been in the office but two or three times. It appeared to be kept very carelessly; the papers were scattered about on the floor, table, and so forth. I have passed by the office several times, and found the office open and nobody in it.

Examined by U. S. Attorneys.

Question. You said that you never was at Lake George; how then did you obtain your knowledge of the state of the country there, about which you have testified?

Answer. From general report.

Question. Could a settlement have been made upon Lake George, with safety to persons or property, before the year 1815?

Answer. I heard that it was not safe.

The counsel for the United States objected to all the testimony of this witness, relating to the disturbed state of the country, as being irrelevant; and also to all the testimony of this witness, relating to the manner in which the office of the archives were kept by Mr. Law, which objections were overruled by the court, and the said testimony admitted.

JULY 23d, 1833.

Testimony of Z. Kingsley.

Zephaniah Kingsley, sworn as a witness in open court, on behalf of the claimant.

Question. How long have you been an inhabitant of East Florida?

Answer. Since the year 1803.

Question. Have you been acquainted with the manner in which public lands were granted in East Florida in Spanish times?

Answer. Yes, I have. The manner, in all cases that I know of, is, first by making a petition or memorial to the governor, dated and signed, setting forth the objects and wishes of the petitioner; it was then usual for the governor to put on the margin of the memorial, an enquiry to the officer who had jurisdiction of the case, whether the facts set forth in the memorial were true or not; and according to the certificate of that officer, the governor made his decree.

Question. Upon this memorial or petition, did the governor grant or concede the lands petitioned for to the petitioner?

Answer. Upon this petition the governor either conceded or refused the lands.

Question. Where *were* this memorial and decree of the governor kept, when he granted or conceded the lands petitioned for?

Answer. After they had gone through the government office, they were sometimes transferred to the escribano's office; but if they were not transferred to the escribano's office, they were kept in the secretary's office, and these originals were deposited in the secretary's office; and if the party wanted a certified copy, it was got from the escribano's office. I do not remember that I ever got a certified copy from the secretary's office; and the certificate usually contained the words to serve in case of loss.

Question. Were not your titles which you had lodged in the escribano's office, always royal titles?

Answer. Yes.

Question. Do you, or do you not, know that mere grants or concessions of land, not amounting to what are called royal titles, were kept in the office of the secretary of government?

Answer. I do not know—my understanding is, that they might be kept in either office.

Question. Are you able to state that you ever saw *a* mere concessions of lands verified by the certificate of the escribano?

Answer. I cannot call to my remembrance having seen one.

Question. Have you not seen many such concessions verified by the certificate of the secretary of government?

Answer. I cannot particularly remember.

Question. Do you not know that there were two distinct offices kept here in Spanish times, in which documents relating to the granting of lands were deposited; and if so, what were they called?

Answer. Yes; one of these offices was called the government secretary's office, and the other the escribano's office.

Question. By whom were documents from the office of the secretary of the government certified?

Answer. By the secretary of the government.

Question. Were the certified copies made by the government secretary according to your opinion of Spanish usage, evidence to prove the matters set forth in such certified copies.

Answer. Certainly. No other evidence required that I ever heard of.

Examined by U. S. Attorneys.

Question. You have said that you always received royal titles for the lands granted to you, by the Spanish Government; did you ever receive a royal title until you had first obtained a concession from the governor?

Answer. Never.

Question. Do you recollect any case in which a certified copy of a document or paper purporting to be a concession for lands, was received in evidence and taken as proof that such a concession had been made by the governor, when search had been made in the proper office and no such original concession could be found?

Answer. I never heard of such a case. I never heard of such certificate being doubted; it was considered as evidence whenever it was offered; there was no other evidence required than the certificate of the officer of the proper department.

Question. Do you recollect any case under the Spanish Government, in which the original grant or concession could not be found in the office to which it properly belonged, after such grant or concession had been made?

Answer. I never heard such a thing called in question.

Question. Under the Spanish Government, if you had gone to the Spanish archives, and after strict examination, you could find no grant or concession to a certain individual, would you not

consider that circumstance as conclusive evidence that no grant or concession had issued to such individual?

Answer. I never knew of an instance of that sort. That if a person told me he had a grant of lands in the office of the archives, and on search being made none could be found there, I would suppose that the person had told me an untruth; even the governor himself would not go further than the officer's certificate.

Question. Do you mean, by what you have said, to answer the last question in the affirmative or negative?

Answer. I should not consider it conclusive but a strong presumption that such concession had never been made, as such examination could only be made through the escribano or public officer charged with that department, who might have overlooked it, or it might have been mislaid and not remembered, therefore admits of the possibility of its former existence; this is a consciencious answer to the question, and may either be considered as positive or negative, according to the construction put upon it by those concerned.

Examined by Claimant.

Question. Suppose sir, that after you had examined at the office of the archives and found no grant there; a certificate of the secretary or escribano had been presented to you, setting forth and showing such grant, would you not consider it conclusive that such grant had been made by the government?

Answer. I certainly should consider it as conclusive, that the original had existed there and had been mislaid.

Examined by United States Attorneys.

Question. In your last answer have you expressed your own opinion only, or are you speaking of the usage of the province under the Spanish Government; if of the usage of the province, how do you know it to have been the usage?

Answer. My opinion is derived from my own experience, combined with the usages of the province; I knew it to be the usage from experience.

Question. Did you ever know an instance of the kind under the Spanish Government?

Answer. I can't say that I remember any particular case of the kind at present.

Question. Then how can you speak of the usage?

Answer. The same as we speak of all other things; can't tell where we get our opinions from; but from our knowledge.

JULY 24th, 1833.

Zephaniah Kingsley again called on this day and examined by claimant.

Question. Are you acquainted with the manner in which the office of the public archives was kept after the cession?

Answer. Only transiently, when I came to town; I was never employed in the office.

Question. Be pleased to state how the said office was kept, so far as came under your observation; whether with care or otherwise?

Answer. My impression was that it was not kept with care; that there was no head to it.

Question. Were you ever in the office while kept by Mr. Edmund Law?

Answer. I was in it once or twice while he was keeper, during his absence, when he was away at the north; I believe it was two years after the change of flags before there was a regular keeper of the archives.

Question. Were the papers kept on shelves, or how were they kept?

Answer. As far as I observed they appeared in the greatest confusion; it appeared to me to be a resort for boys smoking segars and idle people.

Question. Was there or not great apprehension entertained by the Spanish inhabitants, for the safety of the titles, immediately after the cession?

Answer. I heard a general expression of that sort among all the people; and had a great deal of fear myself.

Question. Did or did not that fear result from the manner in which the office of the public archives was kept, for sometime after the cession?

Answer. It did.

Question. Where was the said office kept at the time to which you have referred?

Answer. In the room under the one now occupied as a court-room.

Question. Was or not the papers of the said office scattered about the office and loose upon the tables and shelves?

Answer. They were generally in great disorder; they were not in any regular order.

Question. Could or could not any paper have been abstracted from the said office, if any person had been disposed to do so?

Answer. It was my impression that they could, and it was the general report that persons that had cases in the courts here at that time, helped themselves, and some of these papers were found among the effects of deceased persons.

The counsel for the United States objected to the testimony of this witness as to rumor and report, and objection sustained by the court; but testimony to be incorporated in the record to be reviewed in case of appeal.

Question. Do you or not consider from the manner in which the office was kept, that papers belonging to it were liable to destruction and loss, as well as abstraction?

Answer. My impression was that any thing could be done in it; I do consider that they were liable to destruction and loss as well as to abstraction.

[The counsel for the United States objected to the foregoing question, & objection overruled by the court.]

The counsel for the United States objected to all the testimony of this witness, relating to the manner in which the papers in the office of the public archives were kept, and objection overruled by the court.

Examined by United States Attorneys.

Question. How long was Mr. Law keeper of the archives?

Answer. I am not able to say exactly; I think it was about two years from the time of the change of flags till there was a regular keeper.

Question. Who was the first regular keeper?

Answer. My impression is that Mr. Reynolds was the first regular keeper.

Question. Was not Mr. Cavedo present on those occasions when you visited the office?

Answer. I am not able to charge my memory as to any particular individual that was present; there appeared to be no regularity and only a parcel of boys.

Question. You know Mr. Cavedo personally, and that he was a clerk of Mr. Law?

Answer. I know Mr. Cavedo personally, but I did not know him to be the clerk of Mr. Law.

Question. How often were you at the office?

Answer. Two or three times.

Question. What were the evidences of disorder, which you saw, in the manner of keeping the office?

Answer. The papers laying about in disorder, and some of them in piles on the floor.

Question. Were not the persons whom you saw in the office engaged in examining the papers?

Answer. No; I did not perceive that they were; they appearing to be playing or amusing themselves; I did not see any of them employed in an official capacity.

Question. How were they playing or amusing themselves?

Answer. The same as boys usually do; smoking segars and fun.

Question. Where they small boys you saw smoking segars?

Answer. No; they were ordinary sized boys, and some of them stout young men.

Question. Do you recollect the names of any of the boys or young men?

Answer. I cannot charge my memory with the names of any of them.

Question. How many persons did you find in the office?
Answer. I am not able to say.
Question. Do you recollect any disorder or impropriety of conduct, among the persons you saw there?
Answer. I did not, no more than playing, as young men usually would; I saw no impropriety.

Testimony of G. I. F. Clarke.

JULY 24th, 1833.

George I. F. Clarke sworn as a witness on behalf of the claimant.

Question. Were you or not the surveyor general for this province under the Spanish Government; if you were, state how long?
Answer. Yes; from 1811 till the change of flags in 1821.
Question. Are you acquainted with the manner of applying for and obtaining cessions of land, while East Florida was under the Spanish Government?
Answer. Yes; by petition to the governor which he granted by a decree.
Question. State what was done with the decree of the governor.
Answer. The petition and decree remained in the governor's office.
Question. What evidence of the decree was given to the party?
Answer. A copy of that petition and decree certified by the secretary.
Question. For what purpose was this certified copy given to the party?
Answer. As his evidence of the prayer of his petition being granted by the governor.
Question. Was the party entitled to the possession of the original memorial and decree, or had he any control over them?
Answer. They remained in the governor's office as a record; the party was not entitled to them.
Question. Were the certified copies made by the government secretary, according to your opinion of Spanish usage, evidence to prove the matters set forth in such certified copies?
Answer. Yes.
Question. Was or was not a copy of a concession, properly certified by the government secretary, full legal authority to you as surveyor general, to survey to the party, the lands granted by the concession.
Answer. Yes.
Question. Was it or not your uniform practice, as surveyor general, to act upon the copies of concessions, thus certified, as authority for surveying the lands conceded?
Answer. Yes.
Question. Was or was not the copy certified by the secretary of

the government equivalent to the original, as evidence of the party's title to the lands?

Answer. Yes.

Question. Suppose it should appear at the time the certified copy by the government secretary was offered in evidence, that no original could be found in the proper office, or be proved except by such certified copy; would said certified copy still be received as evidence that the original had existed, as set forth in such certified copy?

Answer. I know of no case of the kind that has ever happened; but I have no doubt in my mind but that the certified copy would be as good evidence as the original.

Question. According to the usages of the Spanish Government here, would not such copies, in the absence of the originals, be received as equivalent to, and actually made originals?

Answer. I don't know of an instance where there was a deficiency of the original; but I have no doubt that the copy would be received; by some process the copy would be made as good as the original.

Question. Had or had not the certified copy of a concession given by the government secretary, the same force and effect as a certified copy given by the notary of the government, as evidence?

Answer. Yes; they both had the same effect, they were both like evidence.

Examined by United States Attorneys.

Question. How do you know that the certified copy of a concession given by the government secretary would have the same force and effect as a certified copy given by the notary of government, as evidence?

Answer. The notary of government and secretary gave different certificates; the notary gave certificates of titles already formed, and the government secretary gave certificates of decrees and memorials, and the respective certificates by these officers were of the same effect; they would have the same effect on such certificates as they usually gave; the certificates of the notary would not have the same effect; the notary never gave such certificates; the certificates given by the notary were as good as the certificates of the gov't secretary, where they related to things which he could certify; they had not the same effect when applied to memorials and decrees.

Question. Were not the notarial certificate annexed to the copy of a grant, always under the seal of the notary, and were not the certificate given by the government secretary and annexed to the copies of concessions, always without seals?

Answer. The notary used no seal, he used a flourish that was called a signet; the governor put a seal on such papers as were to go out of the province; the certificate of the secretary had no seal.

Question. Was not the signet of the notary furnished him by the government, at the time of his appointment, and was said notary not required to affix his signet to all his official acts?

Answer. Yes.

Question. How do you know that a certified copy, given by the government secretary, was equivalent to the original, as evidence of the party's title to the land?

Answer. The certified copy was full evidence and the original could be no more; I never saw the original produced in evidence.

Question. Do you recollect any case under the Spanish Government in which an instrument of writing, certified by the government secretary, as a copy of a concession, was received as full evidence of a concession, when no original concession could be found in the proper office of the government?

Answer. I do not recollect in any case, of there having been any deficiency of the original.

Question. Do you recollect any usage or custom under the Spanish Government, by which a certified copy of a concession would be received in evidence, and taken as proof that an original concession had existed, when no original could be found in the proper office, and where no other proof of the original having existed, could be procured, except the certified copy given by the gov't secretary?

Answer. I know of no case having occurred in which an original was wanted; but if the original could not be found it would be supplied; and my reason for thinking so, is my knowledge of the patriarchal character of the government, and the benevolence of the governors, who would supply the deficiency in order that the party should sustain no loss.

Question. Did you survey the land claimed by the present claimant?

Answer. No; it was surveyed by one of my deputies.

Question. Do you know when it was surveyed?

Answer. I cannot remember at present; the plat and certificate will answer the question.

Examined by Claimant.

Question. Had the notary of the government possession of, or any thing to do with the papers kept in the secretary's office?

Answer. Not until they were passed to his office for some particular operation or act.

Question. Had the government secretary possession of, or any thing to do with the papers kept in the notary's office?

Answer. No.

Question. What kind of titles were kept in the offices of the secretary and notary of the government, respectively?

Answer. The first formation of the grant which was the memorial and decree was lodged in the secretary's office; and was then passed to the notary's office, when prepared to receive the royal title.

Question. Were not the royal titles kept in the notary's office?

Answer. Yes.

Question. Were not the concessions kept in the secretary's office?

Answer. Yes; the memorials & decrees were kept in the secretary's office, and were called concessions.

Question. You said, in your reply to a question from the counsel for the United States, that the certificate of the secretary and the notary, "had not the same effect when applied to memorials and decrees." I now ask, would not these officers, to matters proper for them to certify to, be full evidence of the matters thus certified to by them?

Answer. Yes.

Question. Was or was not the certificate of the secretary, to the copy of a memorial and decree, in case of a concession as full evidence of such memorial and decree, as the certificate of the notary to the copy of the title papers, would be in case of a royal title?

Answer. Yes.

Examined by United States Attorneys.

Question. Do you recollect any distinct fact or occurrence under the Spanish Government, which enables you to answer the two last questions put to you by the counsel for the claimant in the affirmative?

Answer. No, I do not recollect any particular fact or occurrence, but speak from general usage.

Question. How do you know the general usage, when you recollect no fact or occurrence by which the usage would be known?

Answer. The general usage of the papers being passed to an fro through the offices, and never being refused; does not recollect of any particular occurrence.

Question. Do you recollect an instance in which an original royal title could not be found in the proper office, either under the Government of Spain or the United States, where a certified copy of such title, under the hand and signet of the notary or keeper of the public archives was produced?

Answer. I don't recollect.

Examined by Claimant.

Question. Were not concessions kept in loose and separate sheets of paper in the secretary's office.

Answer. Yes.

Question. Were not the royal titles kept in books or bound together, in the notary's office?

Answer. Yes.

Examined by United States Attorneys.

Question. Were not the original concessions carefully put up in bundles and tied with strings, and were they not carefully preserved in every respect, to the best of your recollection and belief?

Answer. Yes, they were tied up in bundles once a year, and had a label in front, and were carefully kept and preserved in every respect, while in the hands of the government secretary.

Question. Were the books and records of the royal titles, of which

you have spoken, any thing more than a few sheets of paper stitched together without binding?

Answer. They were generally large books, regularly bound.

Testimony of J. M. Fontane.

JULY 25th, 1833.

John M. Fontane, sworn as a witness, in open court, on behalf of claimant.

Question. Be pleased to state whether or not, you are a native inhabitant of East Florida?

Answer. I am.

Question. Are you acquainted with the manner in which grants, or concessions of land, were made in East Florida in Spanish times; if so, state the manner?

Answer. I am in some measure, I cannot say that I am perfectly acquainted with the manner; it would be by petition to the govenor, and the govenor would act upon the petition, and either grant or refuse the prayer of the petition.

Question. When the lands petitioned for were granted or conceded by the government, was the concession or grant by the decree of the governor?

Answer. Yes.

Question. Were the original memorial of the petitioner and decree of the governor, retained in the government secretary's office, or were they delivered to the party petitioner?

Answer. The original memorial and decree remained in the secretary's office.

Question. What evidence of the grant or concession, (if any,) was furnished to the party to whom the lands were decreed?

Answer. A certified copy of the memorial or petition and decree, by the secretary of the government.

Question. According to your opinion of the usages of this province in Spanish times, would or would not such certified copy of the memorial and decree have been received in the Spanish tribinals, and by Spanish public officers, as full evidence of title in the person to whom the concession or grant was thus certified to have been made?

Answer. I believe it would.

Question. Suppose in fact, that at the time such certified copy, by the secretary of government, was offered in evidence, it should be shown that the original memorial and decree were not in the office; would such certified copy still have been received as evidence of title?

Answer. I am inclined to believe it would, because I have been acquainted with many instances where the original directed that a certified copy be furnished the party for his security; and I understand the security was, to secure the party against the loss of the original.

Question. Had the interested party, I mean the petitioner, any control over, or right to the possession of the original memorial or decree?

Answer. I was always led to believe he had not; the originals always remained in the office, that is, where the prayer of the petitioner was granted; where the prayer of the petitioner was not granted, the party would sometimes withdraw the originals; but where the lands were granted, the originals always remained in the office.

Question. Was, or was not, a copy of a concession properly certified by the government secretary, full legal authority to the surveyor general to survey to the party the lands granted by the concession?

Answer. I always understood so.

Question. Were the certificates made by the government secretary, according to your opinion of Spanish usage, evidence to prove the matters set forth in such certificates?

Answer. I always believed so; I would believe it to be as correct as a copy given by the clerk of this court, and would attach the same credit to it.

Question. Was, or was not, the copy of a concession properly certified by the government secretary, full evidence that the original had been made, and was in the secretary's office at the time the certified copy was given?

Answer. I would believe so.

Question. According to the usages of the Spanish Government here, were not such copies, in the absence of the original, received as equivalent and actually made originals?

Answer. I should believe, from seeing the copy, that the original was in the office.

Question. Do you, or not, remember the time at which the papers belonging to the office of the public archives of East Florida, were delivered to Mr. Reynolds?

Answer. I do not recollect the exact time; I believe about the year 1823.

Question. By whom were they delivered to Mr. Reynolds?

Answer. I don't recollect by whom they were delivered; it runs in my mind that Mr. Geo. Gibbs had something to do with them. I believe he was appointed one of the commissioners to take an inventory of them.

Question. Were you, or not, employed as a clerk in the taking the inventory of these papers?

Answer. I was.

Question. In what state or condition were the papers found, on your entering on the making of this inventory. Did they appear to have been previously regularly or carefully kept, or otherwise?

Answer. They were far from being regularly kept; they did not appear to be carefully kept; they were all over the room; a good many of the papers were not alphabetically arranged, and they were scattered and mixed.

Question. Were the papers found on shelves, or scattered and loose over the room?

Answer. I don't recollect, at this time, whether any of them were on shelves or not; they were scattered about the room. I don't recollect whether there were any shelves; if there were any, I don't think there were more than two or three. I recollect seeing bundles on the floor.

Question. Were the bundles generally fastened or were they open and loose?

Answer. Some of them were fastened, and a great many loose; the memorials and decrees were all on loose sheets of paper.

Question. In what place were these papers found, on your entering on the duty of making this inventory?

Answer. In this house, in the large room below.

Question. Are, or are not, royal titles bound together in books, and were they not so in Spanish times?

Answer. Yes, I have seen royal titles, bills of sale, and mortgages bound together in large books. I have also seen some dozen or more stitched together and indexed at the back.

Question. How do you account for the different manner of keeping these royal titles?

Answer. The way I account for the different manner in which they were kept is, when there was a sufficient number of small bundles stitched together, they were made into a large book.

Question. Were, or were not, the door and windows of the room in which you found these papers secure and safe, or in what condition were they at that time?

Answer. Not much better than they are now, if any thing worse. I do not recollect particularly the condition of the room, there is a new door to it now which was not there then.

Question. When these papers were taken charge of by the commissioners, as stated by you, were they not in such a condition as to be extremely liable to loss, to destruction, or to be taken from the office by any one disposed to take them?

Answer. I think that any one could have free access to the office. I have gone by it frequently and seen the front windows open, and no one in the office; this was before the commissioners had charge of the papers.

The counsel for the United States objected to all the testimony of this witness, relating to the manner in which the papers in the office of the archives were kept, and objection overruled by the court.

Examined by United States Attorneys.

Question. In your answer to the 6, 7, 8, 9, 10 and 11 questions put to you by the counsel for the claimant, did you intend to express your own opinion only, or did you intend to speak of the known and established usage of the province under the Spanish Government?

Answer. I speak my opinion as derived from the general usage of the country.

Question. What was your age at the time of the transfer of this province to the United States, and what opportunities had you of becoming acquainted with the usage of the province?

Answer. For many years before the exchange of flags, from the year 1815 to the change of flags, I was a commission merchant here, and had to apply for permission to land cargoes, and go through the regular routine of business. Witness is now about 36 years of age.

Question. Why do you believe that according to the usage of the Spanish Government, a certified copy of a concession would have been received as full evidence of the concession. Do you remember any case of the kind, and in what instance?

Answer. I recollect of one case, where I petitioned myself, to have a piece of land surveyed, or to have a royal title made out, and I accompanied the petition with a certified copy of the memorial and decree, and that certified copy was received as evidence, and no further evidence of the title was required, and the petition granted. I believe this was in relation to some lands for one Martin, at Musquito, the documents in which case the witness believes are in existence. I don't recollect any other particular case, but it is my impression that that was the usage.

Question. Have you any other reason for believing the usage of the province to have been such as you have stated it was, than the one you have just given?

Answer. I derived the impression from the custom of the country at that time, and the routine of doing business.

Question. What was the custom in cases where there could be found no original concession in the proper office of the government, and an individual had a paper certified by the government secretary to be a copy from an original in that office?

Answer. I never heard that question raised under the Spanish Government.

Question. You have said that you believed a copy of a concession properly certified by the government secretary, full legal authority to the surveyor general to survey to the party the land granted by the concession; were you acquainted with the laws on that subject?

Answer. I can't say that I was.

Question. You have said in answer to the 11th question put to you by the counsel for the claimant, you should believe from seeing the copy of a concession that the original was in the office; in this answer do you express your own belief only?

Answer. Yes; my belief,

Question. In speaking of the manner in which the archives were kept by Mr. Law, you have said that any one might have had full access to the office; that you frequently went by and saw the front windows open, and there was no one in the office; could not the royal titles have been taken out as well as the concessions?

Answer. Any paper could be taken out with the same facility; a bundle could be taken out, and a big bundle as easy as a small one;

except that a person might hide a paper in his pocket, and it would not be so easy to hide a bundle.

Question. Were not the bundles in which the concessions were put, larger and more difficult to remove than the sheets of paper stitched together on which the royal titles were written?

Answer. These memorials and decrees were generally in bundles, but on loose sheets of paper; generally the small bundles containing royal titles were stitched together, and on top of one another; I have stated before that a whole bundle of concessions would be more difficult to remove on account of the size. It would be much easier to take away a concession, that was on a separate sheet of paper, than to take away one of these bundles of royal titles which were stitched together.

Question. Have you ever known an instance either under the Spanish Government or since the tranfer of the province, in which a royal title was lost from the proper office?

Answer. I never heard of an instance.

Question. You have said that the papers in the office when under the charge of Mr. Law, were kept in great disorder, do you believe that a person unacquainted with the manner in which they were kept, could find any particular paper in a whole day's search?

Answer. I expect it would be a very difficult thing for a person not acquainted with the manner in which these papers were kept, to find any particular paper. I can't tell whether he could in a day's search or not.

Examined by Claimant.

Question. Do you not know that it was the uniform usage and practice of the surveyor general to act upon the copies of concessions certified by the government secretary, as full authority to him for surveying the lands granted?

Answer. I always understood so.

Testimony of John Rodman.

JULY, 25, 1833.

John Rodman sworn as witness in open Court on behalf of the Claimant.

Question. When did you arrive in this country?

Answer. On the 13th day of August, 1821.

Question. Were you or not in the habit of frequenting the office of public archives while in charge of Mr. Edmund Law in this city? If you were, be pleased to state in what manner the papers of this office were at that time kept, whether with care or otherwise?

Answer. Yes. I was very often at the office of the archives while kept by Mr. Law; it was kept directly under this court-room; I went to this office for the purpose of seeing the grants and other papers in the offie. I became well acquainted with Mr. Law, he was *a*

very gentlemanly, and I always took him to be a very honest and honorable one in his public transactions. He kept his office of public archives in the most careless, slovenly, and negligent manner imaginable; the public papers were lying a great many of them on a long table, some in bundles, and some scattered about; a great many of the public papers were lying on the floor; the windows open, and the papers blowing about; the public office where these papers were kept, was frequently left open, and no person in it to take charge of them; I would not venture to look at the papers when no person was in the office, but I frequently saw other persons that did, Spanish gentlemen that I suppose thought they had a right to look at them. Mr. Law did not attend regularly himself in the office, being much afflicted with the rheumatism; Mr. Cavedo acted as his clerk generally, but was not regular in the office.

Question. Was this office at the time you refer to, frequented indiscriminately by persons having business there, and by persons having no business there?

Answer. I cant't say with regard to those that had no business there; with regard to those that had business there, will mention one occasion; the occasion which I mention, was with Mr. Andrew who was here, and agent for the sale of the Miranda grant. Mr. Andrews was afterwards made one of the judges under the ordinances of General Jackson; he asked me to accompany him to Mr. Law's office of public archives to examine a large grant of land which he told me was made to Mr. Arredondo, junior; he told me it was near the grant to Miranda, and was afraid that it encroached upon it; as I knew a little of Spanish, he called upon me to examine these two grants and compare them together. We found Mr. Cavedo in the office but not Mr. Law. Mr. Cavedo took a large bundle of grants from off the table, and showed us both the grant to Miranda and the grant to Arredondo; Arredondo's for 250,000 acres. We examined very particularly both these grants, and Mr. Cavedo assisted us to translate them into English. We were perfectly satisfied they did not encroach upon one another. I can only observe, that before the land commissioners when they applied to establish the grant to Arredondo, it could not be found, and has never been found since.

Question. Have you or not constantly resided in St. Augustine since you first arrived in this territory, and are you or not an attorney and counsellor at law, and have you or not been for many years past the collector for this port and district?

Answer. I answer this question in the affirmative.

The counsel for the United States objected to all the testimony of this witness relating to the manner in which the office of the archives was kept; which objection was overruled by the court.

Examined by United States Attorneys.

Question. Did you ever go to the office without finding Mr. Cavedo there?

Answer. I have been there many times, at least a dozen, and found no person there, and the office open. I repeatedly complained to Mr. Law about it. I very rarely found Mr. Law there. The reason that I went to this office so frequently was, because my friends in New York requested me to examine the titles to lands here, and I went to the office so frequently for that purpose.

Testimony of E. B. Gould.

JULY 26th, 1833.

Elias B. Gould sworn as a witness in open court, on behalf of the claimant.

Question. Did you or not apply to Antonio Alvarez, Esq., the keeper of the public archives for East Florida, to know whether the original concession for the lands in this case was, or was not, in the office of the said keeper of the public archives? If you did, state when, and the information he gave you on the said application?

Answer. I did apply to Mr. Alvarez during the month of May, 1831, for a copy of the original concession in this case, and was informed that it was not in his office. I then obtained the copy of the certificate of Aguilar. I have since applied to Mr. Alvarez, within a few days past, to know if the original was in his office, and was informed by him that it was not.

Examined by United States Attorneys.

Question. Had you or not ascertained, before you applied to Mr. Alvarez in 1831, that the original grant in this case was not in the office?

Answer. I did not know, at the time I first applied to Mr. Alvarez in 1831, that the originnl was not in the office.

Question. Were you the counsel employed originally by the claimant in this case?

Answer. No sir—I was employed some time in May, 1831. I was not employed in this case before the board of commissioners. I was the counsel originally employed to bring this suit before this court.

Question. Do you know how the certified copy by Aguilar, of the grant in this case, came before the commissioners?

Answer. I do not know.

Testimony of Philip Solano.

AUGUST 3d, 1833.

Philip Solana sworn as a witness in open court, on behalf of claimant.

Question. Are you a native born inhabitant of East Florida?

Answer. Yes.

Question. Have you been a constant resident of the province?

Answer. Yes.

Question. Be pleased to state your age?

Answer. I am fifty-one years old.

Question. Were you in Spanish times engaged in licensed trade with the Indians of the province; and if so, for what period?

Answer. Yes—we traded with the Indians when we pleased; we had no limited time. I was in trade with them for about twenty years before the cession.

Question. Do you know where Lake George is situate?

Answer. Yes—it is situated on the river St. Johns, about sixty or seventy miles south-west of this place.

Question. Will you be pleased to state, as near as you can, how far Lake George is above Picolata?

Answer. I declare I cannot say—I have never been there by water; but it may be in a straight line about sixty miles; the river is very crooked.

Question. Are you able to state whether or not it was considered unsafe to settle in that portion of this province, and around and contiguous to Lake George, in the years 1815 and 1816, and from that time till the transfer of the province to the United States?

Answer. Yes.

Question. Were not the Indians, by the force and fear of General Jackson, subsequent to 1815, and at the time he invaded West Florida, driven in great numbers into, and over East Florida from the west of the Sawanee?

Answer. They were so.

Question. Will you be pleased to state, if you know, whether or not, Lake George and its neighbourhood was, or was not, a place of frequent and common resort of the Indians?

Answer. Yes—it was a place of common resort of the Indians, more so in the winter; they resided there more in the winter than at any other time.

Question. Will you state whether, at the time the Indians were driven in from the west by General Jackson, they did not particularly resort to, and in great numbers harbor about Lake George?

Answer. Yes—a great many.

Question. Will you be pleased to state whether negroes or other property upon the river St. Johns, and to the south and west of St. Augustine, from 1815 to the transfer of the province, was considered safe?

Answer. No.

Question. Do you consider that a small settlement could have been made and occupied with safety on the banks of Lake George, or its neighborhood, for any considerable time, during any period between the years 1815 and the time of the cession?

Answer. I don't believe it could be done.

Question. Do you know of any particular incursion into the pro-

vince, or disturbances between the year 1815 and the cession? If you do, be pleased to state them, and the time they occurred?

Answer. I do not recollect.

Question. Were not some of McGregor's men killed at Musquito?

Answer. Yes—some of them were killed there that came there in a boat, I understood.

Question. Where did these men of McGregor's go from, and for what purpose did they go to Musquito?

Answer. I can't say exactly; I heard they went from St. Marys.

Question. Did or did not East Florida remain in a very unsafe and unsettled state for some years after the cession?

Answer. Yes.

Question. Was negro property safe or unsafe on the St. Johns river, particularly high up the river, between 1815 and the cession?

Answer. I never considered them safe.

Question. Was or was not a great number of negroes kidnapped and carried off from the St. Johns, between 1815 and the cession?

Answer. I don't recollect of any in particular being taken away. Some ran away.

Examined by United States Attorney.

Question. You have said you have been frequently at Lake George; will you state, if you please, what you suppose to be the extent of the lake in width and breadth, and whether or not it is not a very extensive sheet of water?

Answer. I have never been for the purpose of examining the place. I don't know the length or the width of it. I have seen the lake often, but I don't know how long or how wide it is.

Question. Do you think it is ten miles in breadth?

Answer. I cannot tell whether it is ten miles in width or not; it may be between five and ten miles wide. I don't know exactly how wide it is.

Question. Do you think it is ten, fifteen, or twenty miles in length?

Answer. I could not say exactly; it may be ten miles long.

Question. Have you travelled much on the borders of the lake?

Answer. I have been to it different times, but I have never travelled much on the borders of the lake.

Question. Did you ever know any other white person, except Indian traders, to go to Lake George before the change of flags?

Answer. No.

Question. Was it not very unusual for even the Indian traders to go to Lake George, before the change of flags?

Answer. It was not in their way; it was unusual for them to go there.

Question. How far is the settlement on Musquito from Lake George?

Answer. I can't say exactly, but I suppose it to be about 35 or 40 miles.

Question. Were there any settlements between Musquito and Lake George?

Answer. Yes—there was one at Spring Gardens.

Question. Who made the settlement at Spring Garden, and what time was it made? How long did he live there, and when was it abandoned?

Answer. One Mr. Williams made the settlement. The time when it was made is about thirty years ago, as near as I recollect. I don't know how long he lived there, or when it was abandoned.

Question. Was any one living at Spring Garden in the year 1815?

Answer. I believe not. I saw Indians living about there in the year 1815.

Question. Were there any other settlements nearer to Lake George than the settlement at Musquito, in the year 1815?

Answer. Not as I know of.

Question. What number of men were in the boat at Musquito in the year 1817, when you say some men were killed; and did not the balance of the party belonging to the boat leave there immediately after?

Answer. I don't know the number that was in the boat. I believe, by what I understood, that the Spanish troops that went after them—some negroes and some dragoons—made them go away.

Question. Did not the governor send out the troops to defend the inhabitants settled on the east of the St. Johns river, whenever the settlers complained of intrusion either from the Indians or white people?

Answer. I never knew him to send any troops after the Indians; some of ourselves went out sometimes when the Indians done mischief. We petitioned the governor for leave to go out.

Question. When you went out in pursuit of the Indians who had done mischief, did you not always succeed in driving them off?

Answer. We never could overtake them.

Question. You have said there were Indians living on Lake George; when did you first see them living there?

Answer. I don't know if they were living there, but they went backwards and forwards there.

Question. You have said that Indians were driven in on this province by the invasion of General Jackson; was that before the year 1818? And did you ever see more Indians on that lake after 1818, than you had ever seen there before that time?

Answer. I think there were more Indians on Lake George after 1818, that there were before they were driven down here by General Jackson.

Question. Could a settlement have been made upon Lake George, with safety to either persons or property, before the year 1815?

Answer. I believe not.

The counsel for the United States objected to all the testimony of this witness, in relation to the disturbed state of the country,

being irrelevant; and objection overruled by the court, and the testimony admitted.

Testimony of R. D. Fontane.

AUGUST 3d, 1833.

Raphael D. Fontane, sworn as a witness in open court, on behalf of the claimant.

Question. Are you a native inhabitant of East Florida, and has the city of St. Augustine been your constant residence?

Answer. Yes.

Question. Will you state where Lake George is situated, and its distance and direction from St. Augustine?

Answer. It is situated on the river St. Johns, in about a south-west direction from here, and is about sixty miles distant from here by land, and between 45 and 50 miles above Picolata; and from Musquito across to Lake George is between 25 and 30 miles.

Question. Will you state whether the country at Lake George and its neighbourhood was considered a safe place for settlement, at any time between 1815 and the transfer of the province?

Answer. I don't think it was.

Question. Was it reported to be a place of frequent and common resort of the Indians of this province?

Answer. Yes.

Question. Do you consider that either slave or other property would have been at all safe at a small settlement on the shores of the lake, at any time from 1815 to the transfer?

Answer. I don't think they were.

Question. Was slave property considered liable to be kidnapped when upon the St. Johns, and to the south and west of St. Augustine; and were negroes occasionally kidnapped and run into Georgia, or into the Indian country?

Answer. They were.

Question. Do you know of any disturbances that occurred in the country, occasioned either by the Indians or by the patriots, subsequent to 1815; and if so, please to state what they were?

Answer. I do. In 1817, Amelia Island was taken. In 1818, at McGirt's Point, there was the family of one Bradley killed there by the Indians, and some of them wounded. In 1817, at Black Creek, there was a son of one Mr. Branning killed by the Indians. At Flemming's Island a party of Indians, about the latter part of 1817, came down there and killed a young man. At Picolata there were some negroes taken away that belonged to Mr. Wanton—I think this was in 1816; they were taken by white men, and I believe they were carried into Georgia. There was a family of free negroes taken within nine miles of this city; they were taken near about the same time that Wanton's were. There was a boat in the month of August, 1817, left Amelia Island and went to Musquito, and went up the Tomoka river for the purpose of plundering; there

was a party fitted out from this place, and I believe all the men in the boat were killed but one, and their boat taken. I was engaged in two expeditions in 1817, to go out and protect the inhabitants. It was understood there was a boat fitting out for the purpose of plundering the inhabitants, and we went to Mrs. Hudnell's, on the St. Johns river. I was in another expedition that went to St. Marys river to protect the inhabitants. One of these expeditions was in July, 1817, and the other expedition was some time after that in the same year.

Question. Will you be pleased to state whether you were acquainted with the manner in which the office of the archives was kept, while in the charge of Edmund Law, Esq. If so, be pleased to state, so far as you are able, the manner in which it was kept; state particularly.

Answer. I was frequently at the office while it was kept by Mr. Law. I think it was kept in a very loose way: the papers were scattered about the room, shelves, and so forth, and I have seen the office open when there was nobody in it; and I think papers might have been taken from the office, if any body felt disposed to do so. I believe Mr. Cavedo was not the deputy of Mr. Law; I believe he was merely employed to copy papers in the office. I do not know how the papers came into Mr. Law's possession. I did not hear that he was under any responsibility to keep them safe. I do not know that he gave any bond.

Examined by United States Attorneys.

Question. Do you recollect of any other disturbances in the province between the years 1815 and the year 1821, than those you have mentioned?

Answer. I have no recollection of any others.

Question. How far is Amelia Island from Lake George? How far is McGirt's Point, Black Creek, and Flemming's Island, from Lake George?

Answer. I should suppose Amelia Island to be about 150 miles from Lake George; McGirt's Point about 100 miles; Black Creek about 80 miles; and Picolata between 50 and 60 miles distant from Lake George.

Question. How many persons were supposed to be concerned in the taking of negroes of Wanton at Picolata; and how many negroes were taken; and were they not the children of Wanton?

Answer. I suppose there were 8 or 10 persons concerned. I believe, including Wanton's children, there were about seventeen negroes taken, as near as I can recollect.

Question. Was not Wanton an Indian countryman, and were not the persons engaged in taking these negroes subjects of the king of Spain?

Answer. I don't know that he was. I have known him to live at Picolata. I believe that some of the persons engaged in taking

these negroes of Wanton's were Spanish subjects, and some of them people from the borders of Georgia.

There was a gang of Indians at McGirt's Point; I don't know of how many it consisted. The governor did not send out troops at that time. There were eleven Indians concerned in the affair on Flemming's Island. I don't know how many Indians there were concerned in the affair at Black Creek.

Witness states that the strength of the Spanish garrison in this place, from the year 1815 till the change of flags, including the Black troops, were something like six hundred men well armed and equipped. There was a garrison on the St. Johns, at a place now occupied by Mrs. Hudnell, called Fort St. Nicholas, but which was broken up in June, 1817. There was also a garrison at Pilatka, but I don't know that there was any troops there. There were a few men at the place where Mr. Hollingsworth formerly lived, about twelve miles above St. Nicholas. Witness does not know that there were any troops at the mouth of the St. Johns river after 1812. Witness states that the number he has mentioned as being stationed in this place does not include the militia of the place, which might have been one hundred.

Witness states that the boat that was taken at Musquito was taken by the militia that went from this place. The governor received intelligence of this boat's fitting out, and the boat was seen to pass here; and the militia arrived about the same time with the boat. The whole of the men in the boat were killed, with the exception of one man, and the boat taken.

Question. Whenever the governor was applied to for protection, by any of the people settled in the country, did he not send out detachments of troops for their relief?

Answer. I don't recollect of any instance of the kind; companies that have been fitted out I know to be volunteer companies, fitted out by permission of the governor.

Question. Could a settlement have been made upon Lake George with safety to persons or property, before the year 1815?

Answer. I think not. I have been at Lake George. I was up there in the early part of 1817. I was not there with the Indian traders; I was looking out for live oak.

Examined by Claimant.

Question. Were these garrisons stationed on the river St. Johns, or elsewhere, considered as protecting the country, and making it safe and secure beyond the reach of their guns?

Answer. They were not. I believe they were merely kept there for the purpose of giving information to the governor, if there was any disturbance: there were only a few men.

Question. Was the garrison opposite Palatka commanded by Salderal?

Answer. It was kept by a few free negroes. There was a cor-

poral there. I believe Salderal was stationed there. The object of this garrison was, to conduct Indians across the river St. Johns.

Examined by United States Attorneys.

Witness states that it is between 25 and 30 miles from Lake George to Palatka.

The counsel for the United States objected to all the testimony of this witness in relation to the disturbed state of the country, as irrelevant; and also to all the testimony of this witness relating to the manner in which the archive office was kept by Mr. Law: which objections were overruled by the court, and the said testimony admitted.

Testimony of Daniel Hurlbert.

August 5th, 1833.

Daniel Hurlbert sworn as a witness in open court, on behalf of the claimant.

Question. Will you state how long you have been a resident of East Florida?

Answer. It is nearly thirty-one years.

Question. If you know, will you state where Lake George is situated, and its distance and direction from St. Augustine?

Answer. Lake George is situated on the river St. Johns; I was never there but once, a good many years ago. Its direction from this place by land is west, or west south-west—perhaps south of that. I can't tell the distance it is from here.

Question. Will you state whether the country at Lake George and its neighbourhood was considered a safe place for settlement, at any time between 1815 and the transfer of the province?

Answer. From 1812 to the transfer of the province, it was not considered safe for property. The Indians were irritated, having been robbed, and they did not care who they robbed.

The counsel for the United States objected to all the testimony of this witness in relation to the disturbed state of country, as irrelevant; and objection overruled by the court, and testimony admitted.

No. 4.

Offered and read by Claimant.

Without objection from the counsel for the United States.

Commission to Examine F. M. Arredondo.

TERRITORY OF FLORIDA.

In the name and by the authority of the United States of America, to Joseph S. Sanchez and John C. Cleland, Esquires, justices of the peace for St. John county.

Whereas, a certain claim to land is now depending in the superior court for the eastern district of Florida, in which said claim, Elizabeth Wiggins is claimant, and the United States respondent; and it being necessary to the investigation of said cause to have the testimony of Fernando M. Arredondo, the said Joseph S. Sanchez having been named by the said claimant, and the said John C. Cleland by the said respondent, as commissioners to examine said witness on certain interrogatories.

Know ye, that confiding in your prudence, ability, and integrity, you are by these presents appointed, and full power and authority are hereby given to you, diligently to examine the aforesaid witness upon certain interrogatories to be exhibited to you, as well on the part of the said claimant, as on the part of the said respondent, or of either party in said cause; and therefore you are hereby authorised and requested, on a certain day or on certain days, and at a certain place or at certain places, to be appointed by you for that purpose, to cause the said witness to come before you, and then and there to examine him on the said interrogatories, on his corporal oath or on his solemn affirmation first taken before you, and to take such his examination and reduce it to writing on paper, and when you shall have so taken it, to sign the same with your names, and enclose and seal the whole together, conformably to the instructions hereunto subjoined.

And you are hereby further requested, that before you act in, or be present at the swearing or solemn affirming and the examining of the said witness, you do severally make oath or solemn affirmation, that according to the best of your knowledge, you will truly, faithfully, and without partiality to any or either of the parties in said cause, take the examination and deposition of the witness produced and examined by virtue of this commission, upon the interrogatories hereunto annexed and produced to you; and that you will not publish or make known to any person whomsoever, except the clerk or clerks who may by you be employed and sworn to secrecy in the execution of this commission; the contents of the deposition of the witness to be taken by you, until publication shall pass by rule or order of the said superior court. And you are hereby further authorised and requested, jointly or separately, to administer such oath or affirmation

to the rest or any of you, and also to administer an oath of solemn affirmation of secrecy to any clerk or clerks who you may employ, to take or transcribe the deposition of the witness so examined by virtue of these presents, before such clerk or clerks shall be permitted to act in, or be present at such examination.

Witness the Honorable Robert R. Reid, Judge of the superior court for the eastern district of Florida, this 25th day of July, in the year one thousand eight hundred and thirty-three, and in the 58th year of the Independence of the United States of America.

[SEAL.] GEORGE GIBBS, *Clerk*,
Per K. B. Gibbs, Deputy Clerk.

Instructions.

When the testimony is taken, the commissioners are required to sign their names at the bottom of each sheet of the depositions, and of the whole after fixing and sealing the several sheets together, then to enclose the *whom* examination, commission, and all, in an envelope, sealed up, with their names written on the outside, across the seals, and to endorse the packet on the corner thereof, with the names of the parties, and to direct the same to George Gibbs, Esq., C. S. C. E. D. F., and deliver it to him.

Interrogatories to Arredondo.

DISTRICT OF EAST FLORIDA, JULY TERM, 1833.

ELIZABETH WIGGINS
vs.
THE UNITED STATES OF AMERICA. } Land Claim.

Interrogatories to be propounded to Fernando de la Maza Arredondo, a witness to be sworn and examined on behalf of the petitioner in the above entitled cause, before Joseph S. Sanchez and John C. Cleland, Esquires, justices of the peace for St. Johns county.

First. What is your age?

Second. Are you a native born Spanish subject?

Third. Have you been prior to year 1819, [at which time this territory was ceded to the United States,] a resident of East Florida, if you have, for what length of time?

Fourth. Are you familar with the manner in which grants to lands were usually made in this province, while under the dominion of the Spanish Monarchy? if so, state what it was.

Fifth. Was the original decree or concession, by which such grants were made, delivered to the parties in whose favor they issued, or were they retained in some one of the public offices; if the latter, say in what office they were so retained.

Sixth. If, in answer to the last preceeding interrogatory, you say that the original decree, grant, or concession was retained in the public office, by what means was it placed in the power of the grantee, to evidence his title, if at any time it became necessary to do so;

was it, or was it not, by the delivery to him of a copy of such grant, concession or decree, and if it was, was such copy certified, and if certified, by whom?

Seventh. If you say, in your answer to the last interrogatory, that a certified copy of the grant, concession, or decree, was issued to the grantee for his use, be pleased to say in what credit was such certified copy entitled, according to the usages and practice that prevailed here in Spanish times; was it, or was it not, received as full and conclusive evidence of the facts set forth therein, and of the execution, existence and genuineness of the grant of which it was a copy?

Eighth. Were copies of grants, decrees, or concessions, certified by the government secretary of the province, received as evidence by the Spanish authorities, and in Spanish courts?

Ninth. If by any means, the original grant, concession, or decree, had been lost, destroyed, or any how abstracted from the office in which it was by law deposited; would such copy of such grant, concession, or decree, so certified by the government secretary, have been received as evidence of the facts therein set forth, by Spanish authorities, and in Spanish courts?

Tenth. Suppose the original memorial and drecree of a concession or grant, from which such certified copy was made, could not be found at the time the certified copy was offered in evidence, nor proved in any other way than by such certified copy; would it [to wit such certified copy,] have been received as evidence, that such original had been made, and had existed in the proper office as set forth in such certified copy? Additional question to be propounded on behalf of petitioner.

Eleventh. Was, or was not, a copy of a concession, certified by the secretary of government, entitled to the same faith and credit as the certificate of a notary of the government, to copies of instruments in his office?

E. B. GOULD, *Attorney for Claimant.*

Cross interrogatories to be propounded to Fernando de la Maza Arredondo, on behalf of the United States.

First. If you answer the third preceding direct interrogatory in the affirmative, please to state what was your business, occupation, and pursuits, during your residence in East Florida?

Second. If, in answer to the 4th direct interrogatory, you say you are "familar with the manner in which grants to land were usually made in this province, while under the dominion of the Spanish Monarchy;" please to state whether that manner was uniform or variable, and if it varied, in what did the variance consist?

Third. If, in answer to the fifth direct interrogatory, you say that the original decree or concession was delivered to the parties, please to state what evidence was retained by the government, that such concession had been made; and if you say that they were retained in some public office, state whether the practice was uniform

and unvariable or not; and if variable, in what such variance consisted?

Fourth. If, in answer to the sixth direct interrogatory, you say that the original decree or concession was retained in a public office, and that a copy was delivered to the party in whose favor such decree or concession was made, please to state how, and in what manner such copy was verified; had it a seal, flourish, signo, or signet affixed to it; and if it had either, which, and by whom was such verification made?

Fifth. If, in answer to the seventh direct interrogatory, you say that a certified copy of the grant, concession, or decree, was received as full and conclusive evidence of the facts set forth therein, and of the execution, existence, and genuineness of the grant of which it was a copy; please state whether you know and can recollect a single instance, under the Spanish Government, where such certified copy of a grant, concession, or decree, for lands, was offered and received in evidence, in any court or tribunal in this province, when it was known that "no original" of such grant, concession, or decree, was on file in the proper office; if you know of any such case, please state it, and names the parties to it.

Sixth. If you do not know of any case where a certified copy of a grant, concession, or decree for lands, was offered and received in evidence, in any Spanish court or tribunal, when it was known that there was "no original" on file in the proper office; how can you say that there was such a usage as that of which you have above spoken.

Seventh. If you answer the eighth direct interrogatory in the affirmative, please to state whether you know of one single case where a copy of a grant, decree, or concession, certified by the government secretary of this province, was received as evidence by the Spanish authorities, or in any Spanish court; when it was known that strict search had been made in the proper office for the "original," andno such "original" could be found on file there?

Eighth. If you answer the ninth direct interrogatory in the affimative, please to state whether you ever knew such a case as that described in said interrogatory, to occur in this province, under the Spanish Government; if you did, please to mention the case or cases.

Ninth. If you answer the tenth direct interrogatory in the affirmative, please to state clearly and distinctly whether you ever knew any such case, as that described in said tenth interrogatory, to occur in East Florida, under the Spanish Government; if you did, please to name the case or cases, and state the time when they occurred, and in what court or tribunal?

Tenth. Do you not claim title to some land in East Florida, under alleged concessions or grants from the Spanish Government, the original grants or concessions for which cannot be found in the archives, and which claim has not been confirmed by the United States?

Eleventh. Do you not rely upon the certificate of Tomas de Aguilar, formerly the secretary of the govenor of this province, as proof, upon which you expect to procure the confirmation of your claim to

one or more tracts of land in East Florida, claimed by you, under concessions alleged to have been made by the Spanish Government? Have you not claims to land, for which you have no other evidence that a grant, decree, or concession was ever made; please state, particularly.

Additional cross interrogatories to be propounded on behalf of the United States.

Twelfth. If you answer the additional interrogatory of the complainants, numbered 11, in the affirmative, please to state how you know that fact. Do you know of any case where, in any Spanish court or tribunal, "the faith and credit," to which a copy of a concession, certified by the secretary of thegovernment, and of the copy of any document from the escribano's office, certified by said escribano, were respectively entitled, was made a question?

Thirteenth. Was not the certificate of the escribano verified by a flourish or signo, (otherwise called a signet,) or both, and did the government secretary affix to his certificates either a seal, flourish, signo, or signet? If he did, which?

THOS. DOUGLAS,
U. S. Attorney.

Answers of Arredondo.

SUPERIOR COURT, *District of East Florida.*

ELIZABETH WIGGINS
vs.
THE UNITED STATES OF AMERICA. } Land Claim.

The answers of Fernando M. Arredondo to the Interrogatories propounded to him, the said Arredondo being first duly sworn.

To the first interrogatory, witness answers that on the fourth of next month (August) he will be 69 years of age, if alive.

Second interrogatory. Witness answers yes.

Third interrogatory. Witness answers, I have been a resident from the year 1784 to 1812, at which period I went from this to the Havana, as the representative of East Florida; that my family resided at St. Augustine, and though absent at this time, I was considered a resident of Florida.

Fourth interrogatory. Witness answers, yes it was by memorial of the person who wanted the land, which if decreed upon that memorial, granted, it remained in the secretary's office, and if denied, the original memorial was returned to the party.

Fifth interrogatory. Witness answers, that they were retained in the secretary's office of the government, and a copy was granted by the secretary if it was required by the party.

Sixth interrogatory. Witness answers, that if it was required by the party, the secretary gave an authenticated copy, which generally accompanied the petition for royal title, and without the certificate they could not proceed, as the original never came out of the office.

Seventh interrogatory. Witness answers, that it was the same a-

the original; I never knew an instance that it was doubted or questioned.

Eighth interrogatory. Witness answers, yes; there is not the least doubt of it; the same as if it was the original.

Ninth interrogatory. Witness answers, no doubt of it.

Tenth interrogatory. Witness answers, yes, no doubt of it.

Eleventh interrogatory. Witness answers, yes.

To the first cross interrogatory. Witness answers, that he was in the employment of the government, as principal officer of the hospital, commissary of the Indians, and clerk of the exchequer for more than 20 years.

Second cross interrogatory. Witness answers, I do not know that there was any variance; you sent the memorial and got the decree; under all the governors here, it was done in the same manner.

Third cross interrogatory. Witness answers, the original memorials were always retained in the government secretary's office, [as stated in the fifth direct interrogatory,] as evidence of the grant having been made by the government, and does know of any variance.

Fourth cross interrogatory. Witness answers, the certificate had no seal, but merely signed by the secretary, and his private flourish.

Fifth cross interrogatory. Witness answers, that he does not recollect of an instance, but does not doubt that the certificate would be received in evidence, in any of the Spanish courts.

Sixth cross interrogatory. Witness answers, that he has not said that that was the usage, but no doubt, if such a case had occurred, that the certificate of the secretary would be received in evidence.

Seventh cross interrogatory. Witness answers, that he does not remember of any case, but I have no doubt that it would be received in evidence, if the secretary would certify that such a document existed.

Eighth cross interrogatory. Witness answers, that he does not remember any particular case.

Ninth cross interrogatory. Witness answers, that he does not recollect of any.

Tenth cross interrogatory. Witness answers, yes.

Eleventh cross interrogatory. Witness answers, that he depends entirely upon his certificate, because my title has been in the office, and is proved to have been so, but now cannot be found; he knows that one of his titles cannot be found in the office, and others may have been lost also.

Twelfth cross interrogatory. Witness answers, that he knows it, because it was publicly established, that they were entitled to the same faith and credit; I do not know of any instance where it was disputed, out if such an instance had occurred, I have no doubt but that it would have been received as conclusive proof.

Thirteenth cross interrogatory. Witness answers, yes; every escribano had their separate signets, which they affixed to documents, when they authenticated them; to some documents the secretary affixed the government seal, and to others his own name and flourish; to

some passports the government seal was affixed by the secretary, but to his certificates, nothing but his name and flourish.

F. M. ARREDONDO.

Sworn & subscribed to, before us, this twenty-fifth day of July, 1833.

JOS. S. SANCEZ, J. P.
JOHN C. CLELAND, J. P.
Commissioners.

No. 5.

Offered and Read by Claimant.

The counsel for the United States objecting to all the testimony of the witness, relating to the manner in which the office of the archives was kept by Mr. Law, and all the testimony relating to the disturbed state of the country, as being irrelevant, and objection overruled by the court, and testimony admitted.

Commission to examine J. A. Cavedo.

TERRITORY OF FLORIDA:

In the name, and by the authority of the United States of America.

To Joseph S. Sanchez and John C. Cleland, Esqrs., Justices of the Peace for St. John's County.

Whereas, a certain claim to land is now depending, in the superior court for the eastern district of Florida, in which said claim Elizabeth Wiggins is claimant, and the United States respondent, and it being necessary to the investigation of said claim to have the testimony of John A. Cavedo; you, the said Joseph S. Sanchez, having been named by the claimant, and the said John C. Cleland having been named by the said respondent, as commissioners to examine said witness on certain interrogatories.

Know ye, that confiding in your prudence, ability, and integrity, you are by these presents appointed, and full power and authority are hereby given to you, diligently to examine the aforesaid witness upon certain interrogatories to be exhibited to you, as well on the part of the said claimant, as on the part of the said respondent, or of either party in said cause, and therefore you are hereby authorised and requested, on a certain day or on certain days, and at a certain place or at certain places, to be appointed by you, for that purpose, to cause the said witness to come before you, and then and there to examine him on said interrogatories, on his corporal oath or solemn affirmation, first taken before you, and to take such his examination and reduce it to writing on paper, and when you shall have so taken

it, to sign the same with your names, and enclose and seal the whole together, conformably to the instruction hereunto subjoined.

And you are hereby further requested, that before you act in or be present at the swearing or solemn affirming and examining of said witness, you do severally make oath or solemn affirmation that according to the best of your knowledge, you will truly, faithfully, and without partiality to any or either of the parties in said cause, take the examination and deposition of the witness, produced and examined by virtue of this commission, upon the interrogatories hereunto annexed, and produced to you, and that you will not publish or make known to any person whomsoever, except the clerk or clerks who may by you be employed, and sworn to secrecy, in the execution of this commission; the contents of the deposition of the witness, to be taken by you, in this commission named, until publication shall pass by rule or order of the said superior court; and you are hereby further authorised and requested, jointly or separately, to administer such oath or affirmation to the rest, or any of you, and also to administer an oath or solemn affirmation of secrecy to any clerk or clerks who you may employ to take or transcribe the deposition of any of the witnesses, so examined, by virtue of these presents, before such clerk or clerks shall be permitted to act in, or be present at, such examination.

Witness, the Honorable Robert R. Reid, Judge of the Superior Court for the Eastern District of Florida, this 29th
[SEAL] day of July, in the year one thousand eight hundred and thirty-three, and in the 58th year of the Independence of the United States of America.

GEORGE GIBBS,
Clerk.

Per K. B. GIBBS,
Dep. Clerk.

INSTRUCTIONS.

When the testimony is taken, the commissioners are required to sign their names at the bottom of each sheet of the depositions, and of the whole, after fixing and sealing the several sheets together; then to enclose the whole examination, commission and all, in an envelope, sealed up, and their names written on the outside, across the seals, and to endorse the packet on the corner thereof, with the names of the parties, and to direct the same to George Gibbs, Esq., C. S. C. E. D. F. and deliver it to him.

Interrogatories to Cavedo.

SUPERIOR COURT, *for the Eastern District of Florida.*

JULY TERM, 1833.

ELIZABETH WIGGINS
vs.
THE UNITED STATES OF AMERICA. } Land Claim.

Interrogatories to be propounded to John A. Cavedo, a witness to be produced, sworn, and interrogated in the above entitled cause, on behalf of the plaintiff therein, before Jos. S. Sanchez and John C. Cleland, Esquires.

First. Are you or not a native inhabitant of East Florida?

Second. Have you been acquainted with the mode of granting lands in East Florida, in Spanish times?

Third. What evidence of such grant or concession was given to the party in whose favor the grant or concession was made?

Fourth. If you say in answer to the last preceding interrogatory, that a copy of the original memorial and decree, certified by the secretary of the government, was given to the party; be pleased to state, whether such certified copy, according to usage in Spanish times, was deemed full evidence of the grant or concession.

Fifth. Suppose the original memorial and decree should have been lost, or could not have been found, would such certified copy, by the secretary of government, still have been received by Spanish tribunals as full evidence of the grant or concession?

Sixth. Would or would not such certified copy, according to your opinion, have been full and conclusive proof that the original memorial and concession had been made as set forth in the certificate, though at the time such certified copy was offered in evidence, the original could not be found, nor proved in any other way than by the certificate of the secretary?

Seventh. Do you or not consider the copies certified by the secretary of government, equivalent to the originals as matter of evidence?

Eighth. Were you or were you not acquainted with the situation of the country about Lake George, on the St. John's river, in relation to its safety, between the years 1814 and 1821? If you were, please to state whether that portion of the country could have been visited, or settled by families with security to themselves personally and to their property.

Ninth. Do you know whether or not the office of the public archives of East Florida, was at any time in the keeping of one Edmund Law? and if so, when, and how long, and in what house was such office kept by him.

Tenth. Were you or not in the habit of frequenting the said office of the public archives, while so under the charge of said Law?

Eleventh. In what condition were the papers in said office kept? Were they carefully arranged on shelves, or carelessly scattered about the room?

Twelfth. Were the papers secured in bundles or not? and if they were generally so secured, were or not, in many instances the fastenings of the bundles loosed, so that the separate sheets of which said bundles were composed, were exposed to be scattered and blown about, and were they not often actually so scattered and blown about?

Thirteenth. Have you or not seen, at various times, the public papers in said office lying about in confusion on the floor?

Fourteenth. Was or was not the said office the common thoroughfare and lounging place of a great many idle persons?

Fifteenth. Was or was not the said office frequently left open without the presence of any person, who was authorised to protect, supervise, and keep in custody the papers deposited in it?

Sixteenth. Do you or not know if it was the practice for persons who desired the use of papers on file in said office, to take them out of said office, in as great numbers and at any time they pleased so to do.

E. B. GOULD.
Attorney for Claimant.

Cross interrogatories to be propounded to John A. Cavedo, on behalf of the United States.

First. If, in answer to the fourth direct interrogatory, you say that a certified copy of the memorial and decree, was according to usage in Spanish times, full evidence of the grant or concession to the person in whose favor such grant or concession was made; please state how you know that fact. Did you ever see or hear of a case in which this principle was tested? If you did, please name the case and the parties to it.

Second. If you answer the fifth direct interrogatory in the affirmative, please to state how you know that fact. Do you know, or can you recollect a single case under the Spanish Government, where such certified copy of a memorial and decree was received by any Spanish tribunal, as full evidence of the grant or concession when the orignal memorial and decree could not be found, and there was *no other* evidence that such memorial and decree ever existed? If you did, name the case, and say when it occurred.

Third. If you answer the sixth direct interrogatory in the affirmative, please to state whether you ever knew a single case under the Spanish Government, where such certified copy was received by any Spanish court, or tribunal as full and conclusive proof, that the original memorial and concession had been made, as set forth in the certificate, when at the time such certified copy was offered in evidence; the original could not be found, nor proved in any other way, than by the certificate of the secretary; and there was no other proof that such original ever existed. If you do, please state the case, and say when and where it occurred, and names the parties to it.

Fourth. If you answer the seventh direct interrogatory in the affirmative, please to state whether you know of a single case where such a copy certified by the secretary of government was offered and received as evidence equivalent to the original, when after due examination in the proper office, no such original was found on file there, and there was no proof except said copy, that such original ever existed. If you do, please name the case, and the parties to it, and say when and where it occurred.

Fifth. If you know of no such case, or cases, as those above specified, how can you testify that the "*usage*" is as you have above stated?

Sixth. Do you know of any such place in East Florida, as the *pond* of George, or George's Pond? If you do, please to state where it is situated, and whether you was ever in that region of country, and if you was, when?

The counsel for the United States object to all the direct interrogatories of the complainant, from the 7th to the 16th inclusive; because they are leading irrelevant, and wholly inadmissible, according to every principle of law and equity.

Seventh. If you answer the fourteenth direct interrogatory in the affirmative, please to name the persons who made said office a lounging place and thoroughfare, at the time you mention.

Eighth. If you answer the sixteenth direct interrogatory in the affirmative, please to state how you know that the practice in relation to said office, was as you have stated it, and particularly the time when, and what person or persons took any original papers from said office, and what papers they took, and whether they did not return them again to said office.

THOS. DOUGLAS,
U. States Attorney, &c.

Answers of Cavedo.

SUPERIOR COURT—*Eastern District of Florida.*

ELIZABETH WIGGINS
vs.
THE UNITED STATES OF AMERICA. } Land Claim.

The answers of John A. Cavedo to the interrogatories propounded to him, in the above entitled cause; the said Cavedo being first duly sworn.

First. To the first interrogatory. Witness answers, I am.
Second interrogatory. Witness answers, I have.
Third interrogatory. Witness answers, a copy of the governor's decree from the secretary of the government.
Fourth interrogatory. Witness answers, it was.
Fifth interrogatory. Witness answers, it would.
Sixth interrogatory. Witness answers, it would.

Seventh interrogatory. Witness answers, I do.

Eighth interrogatory. Witness answers, I was not acquainted with the country about Lake George. I was living at Amelia Island the greater part of that time.

Ninth interrogatory. Witness answers, I knew Edmund Law to have had the archives under his charge. I do not know how long, but it was kept at the government house.

Tenth interrogatory. Witness answers, I was, as he had employed me to write for him in the same office.

Eleventh interrogatory. Witness answers, they were a part of them kept on shelves, and a part of them on the floor; they were not at all kept carefully.

Twelfth interrogatory. Witness answers, there were a part of them in bundles and a great many loose; they were exposed to be blown and scattered about the room, and were blown and scattered about the room.

Thirteenth interrogatory. Witness answers, many times.

Fourteenth interrogatory. Witness answers, I do not know whether the persons that frequented the office, were idle or not, but there was a great many loungers about the office.

Fifteenth interrogatory. Witness answers, it was.

Sixteenth interrogatory. Witness answers, Mr. Law gave me an order to deliver the gentleman of the bar, documents out of the office, by my receiving a receipt for the same.

To the first cross interrogatory. Witness answers, because I never heard of any of them being disputed or rejected by the government.

Second cross interrogatory. Witness answers, when the party petitioned for his royal title, the certified copy of the governor's secretary was considered sufficient evidence to enable the party to obtain his title from the escribano's office.

Third cross interrogatory. Witness answers, I do not know; I cannot exactly state.

Fourth cross interrogatory. Witness answers, the certificate of the secretary of the government was considered as sufficient evidence. I do not recollect of any particular case, or the parties.

Fifth cross interrogatory. Witness answers, because I visited occasionally the escribano's office, and I saw how the proceedings went on.

Sixth cross interrogatory. Witness answers, I know nothing about such a place as George's Pond, or pond of George.

Seventh cross interrogatory. Witness answers, I know several persons, to wit: Joseph S. Sanchez, Edward R. Gibson, Chas. Vignoles, John M. Fontane, Raphael Fontane, Chas. Gobert, Lewis Hugnon, and many others that I cannot recollect.

Eighth cross interrogatory. Witness answers, I know of one instance wherein I took a receipt for the testamentary document of the estate of Mateo Guardanama. I do not recollect the time.

JNO. A. CAVEDO.

Sworn and subscribed to, before us, this 30th day of July, A. D. 1833.

JOHN C. CLELAND, J. P.
JOS. S. SANCHEZ, J. P. } *Commissioners.*

No. 6.

Regulations of Gov. White.

Offered and read in evidence by U. States.

Don Enriqe White, colonel of the royal armies, civil and military governor, and chief of the royal exchequer of this city and province, of St. Augustine, of Florida, by his majesty, &c.

Whereas it would be useful to alter and modify, in part, the regulations and conditions, which this government had estabiseed for the concessions and distribution of lands to the new settlers, in consequence of the actual circumstances in which the greater number of persons appearing to partake of the favors and privileges which his majesty has conceded to those who come to establish themselves in this province, there has been many abuses on the part of the grantees, under the system and object which then impelled the government to that plan; which, and other circumstances that experience has demonstrated, has made it also appear might redound to the injury of the advancement and settlement of the province; wherefore, and to proceed to remedy them, I have resolved, and order the regulations prescribed in the following articles to be observed in future.

1st. That at the time of the new settlers taking the oath of fidelity and vassalage, accustomed, they ought to declare exactly the number of children; their sexes and ages, which will be taken into consideration to distribute lands to them: for to those who are not full eight years of age, there will be *none assigned.*

2nd. That to each head of a family, there will be distributed fifty acres, an equal number to the unmarried or widowers of both sexes, and to the children and slaves of sixteen years of age, twenty-five acres for each one, but from the age of eight to sixteen years, there will be granted only fifteen acres.

3rd. That those employed in the city of whatever class they be, if there be lands granted to them for cultivation, by themselves or their slaves, it shall be with the express condition, that he shall commence cultivation in one month after the concession of them, with the understanding, that if they do not do it, they will be granted to any one who will denounce him, and verbally prove it.

4th. That all the concessions without time specified, shall be void, and held as though not made, if the grantees do not appear, to take possession and cultivate them within the term of six months.

5th. That to none of those who may cede or transfer their lands to others, with the excuse of selling their improvements, shall there be more lands granted in future, nor is the cessions or transfer permitted, that are not made with the knowledge of the government.

6th. Notwithstanding what is expressed in the preceding article, if it should be an advantage to any settler to change situations, he will be permitted to do so, if he should solicit it, granting him lands at the place he selects, but on the condition of ceding the improvements on the lands which he leaves, to the benefit of the royal exchequer, with which will be avoided the abuses of the transfers and sales, which are prohibited under that pretext, until the proper time prefixed in the regulation or preceding plan.

7th. That on the lands that are not fit for cultivation, but that have timber, or that are only fit for pasturage, for which *usufruct* only they have been solicited, the possessor shall not prevent any one who may present himself, with orders of the government, from cutting and benefitting himself by them, but this is to be understood, without injuring the possessor.

8th. That all who should solicit lands in future, ought to point out some fixed point, from whence the measurement is to commence, which will avoid the mistakes and controversies, which, for want of it, has been principally experienced for a short time back.

9th. That all persons who may have abandoned, or who may not have continued cultivating, nor actually cultivated the lands that may have been measured to him at any time by the surveyor general, [even when there may have been issued to him the corresponding title of property through the notary's office,] shall lose the right to them, and they will be given to any other, who, having no lands to cultivate, shall verbally prove said lands to have been uncultivated for two consecutive years.

And for the punctual observance of all that is stated, and that no one may allege ignorance, I order copies to be put up at the public places in this city, as is customary; and that there be another copy remitted to Don Juan McQueen, captain of militia, commanding the same, and commissioned Judge for the rivers St. Johns and St. Marys, that he may make it known to the inhabitants.

St. Augustine, of Florida, twelfth of October, eighteen hundred and three.

ENRIGUE WHITE.

By order of His Excellency,

JOSE DE ZUBIZARRETA,
Notary of the Government.

It agrees with its original, which remains in the archives, under my charge, to which I refer, and by verbal order of His Excellency, I put my signet to, and sign the present copy, on two pages of common paper, the stamped not being in use. St. Augustine of Florida, *fha ut supra.*

(A notarial signet.)

(Signed) JOSE DE ZUBIZARRETA,
Notary of the Government.

No. 7.

Order of the King.

Offered and read in evidence by U. States.

The king being being desirous of preventing the doubts arising from the decree of the 4th January of the last past year, relative to the distribution of lands, and to put a stop to any competitions produced by the forgetfulness of, or want of observance of, what is provided in the laws of the Indies and ordinances of Intendants, to the great injury of the royal exchequer, and to the proprietors, who, under them, should have obtained the legal acquisition: He has been pleased to order that the intendants should comply strictly with what is commanded in the said ordinances, in relation to the alienation of lands, which product ought to, like the rest of the royal exchequer, serve to defray the expenses of it; and that in his tribunals, they adhere to what is prescribed in the laws of the Indies, and particularly in the royal instructions of the 15th October, 1754, admitting not the least proceeding of any corporation or town, against those lands that bounded or surveyed, should be applied to their owners, in virtue of a title of gift, compromise, or purchase: for his majesty does not in any manner wish that the contrary interpretation to what is ordered, should prejudice his royal interest, or that of his loyal subjects in those dominions, which I communicate to your Excellency, by royal order, for your information; and that you may direct its strict observance. God preserve your excellency many years.

MADRID, 8th of June, 1814.

(Signed) GONGORA.

His Excellency, the Governor of St. Augustine, Florida.

I certify the preceding to be a correct translation of the Spanish document annexed.

JOS. S. SANCAEZ,
In. & Tr. Sup. Court E. D. F.

No. 8.

Memorial and Grant to Bethune.

Offered and read in evidence by U. States.

Objected to by claimant, but admitted by the court.

SEÑOR GOVERNOR:

Don Farquhar Bethune, a new settler, admitted under the protection of His Majesty, with the respect which I ought to present myself to your Excellency and say, that on the sixth of August, one thousand eight hundred and three, there were granted to me one

thousand one hundred acres of land, near Indian river, of which land I took possession within the term prescribed to me, cultivating them from that time, without intermission; but with the misfortune of its not having produced me a single middling crop, and although I was not surprised at the last year's crop, they being generally short, it has not been so this year, for all the inhabitants have reaped abundant crops, by which I am confirmed in my belief of the lands being of a bad quality which I possess. Under this belief, and knowing it will occasion my total ruin, to remain upon that place, for, far from being able to reimburse the many expenditures that have been occasioned me in the migration of my slaves from the island of Providence, and in forming my establishment in this country, I will not make what is necessary for their subsistence. I have determined, in conformity to one of the articles of the edict, published in October, eighteen hundred and three, to relinquish the said land to the king, with all the improvements that are upon it, and ask an equal number of acres upon Halifax river, its boundary commencing on the south of the lands which are granted to Samuel Williams, at said place. It is well known that your Excellency abhors the settlers who are traders and speculators in lands; and it is also notorious that your Excellency protects and contributes to the well being of those who have no other views than that of seeking a profit from the cultivation of the lands, expecting from this mode the province to be generally settled; wherefore, and in consideration that my ideas are no others than those aforesaid, as is proven by my proceedings, and would have proven it further, by the introduction of a larger number of slaves, if the war had not intervened.

I supplicate your Excellency will be pleased to admit the relinquishment which I make, of said lands, granting me, in place of them, those that I have mentioned, and for that purpose I deliver the annexed certificate. Favor which I hope for, from the goodness of your Excellency. St. Augustine of Florida, twenty-third of September, one thousand eight hundred and five.

(Signed) FARQUHAR BETHUNE.

Decree.

St. Augustine, 23d September, 1805. Let Don Gabriel Perpall report as to the truth of the particulars which are here treated of.

(Signed) WHITE.

SEÑOR GOVERNOR:

Having enquired about what is stated by Don Farquhar Bethune, of his neighbors, as well as of Don Juan Purcell, who surveyed the land, (I not having gone to the place,) obeying the superior decree of your Excellency, I say, that I find what is said of the bad quality of the land, is true, enclosing to your Excellency a certificate of his nearest neighbor's.

(Signed) GAB'L G. PERPALL.

Final Decree.

St. Augustine of Florida, 25th of September, 1805. I admit the relinquishment which the interested makes, of one thousand and one hundred acres of land, which were granted to him, near Indian river, granting him an equal number of acres, at the place where he solicits.

(Signed) WHITE.

A certificate was issued.

(Signed) PIENA.

I certify the preceding to be a true and correct translation from the Spanish document annexed.

JOSEPH S. SANCHEZ,
Int. and Tr. Sup. Court E. D. F.

Proceedings to obtain Royal Title.

Don Juan de Piena, Lieut. of the 3d battalion of the regiment of Infantry of Cuba, and secretary of government.

I certify, that to a memorial presented by Don Farquhar Bethune, relinquishing the one thousand one hundred acres of land, which, on the 6th August, 1803, were granted to him, at the plantation which was formerly cultivated by one Captain Ross, on Indian river, and soliciting an equal number of acres on Halifax river, its boundary commencing south of the lands granted to Don Samuel Williams, the following decree was this day had.

I admit the relinquishment which this party interested makes, of the one thousand one hundred acres of land that were granted to him, near Indian river, granting to him, in lieu of them, an equal number of acres at the place he solicits. WHITE.

And that it may serve as security to the interested, I give the present in St. Augustine of Florida, the 25th of September, 1805.

(Signed) JUAN DE PIENA.

In virtue of the commission that has been conferred upon me, by His Excellency Don Enrique White, civil and military governor of this province, on the 7th of October, in the year 1803.

I certify that I have measured and bounded, to Don Farquhar Bethune, a piece of land, which contains one thousand one hundred acres of land, situated on Halifax river, bounding on the north with lands of Don Samuel Williams, on the east by Halifax river, and on the south and west by vacant lands, which figure and demarcations are those which are denoted in the following plat; and that it may appear, I sign it in St. Augustine of Florida, 18th day of May, 1806.

(Signed) JUAN PURCELL, *Surveyor.*

[For plat, see original, page 156.]

Scale of 40 chains to an inch.

SEÑOR GOVERNOR:

Don Farquhar Bethune, new settler of this province, with due respect to your Excellency, I present myself and say, that in the month of August, of the year 1803, your Excellency was pleased to grant me one thousand and one hundred acres of land, on Indian river, and I having experienced, in two successive years' cultivation, its little or no utility, I obtained of the government the favor of permitting me to make a relinquishment of this land, and in its place an equal quantity, upon Halifax river, as appears by the certificate of the secretary, Don Juan de Piena, which is hereunto annexed to this my solicitude; and as the ten years' possession established by the government, have already elapsed, which, at its expiration, and not before, there are granted to the new settlers the title of property; and having affected its measurement and boundary, according to the certificate and plat given by Don Juan Purcell, appointed surveyor for the purpose, which also accompanies; therefore, I pray your Excellency will be pleased to order the corresponding title of property to be extended and issued to me, for the said one thousand and one hundred acres of land. It is a favor that I hope to obtain from the just administration of your Excellency.

Fernandina, of Amelia Island, 19th of February, 1814.

(Signed) FARQUHAR BETHUNE.

Decree.

Pass it to his honor the auditor of war.

(Signed) KINDELAN.

Before me, JUAN DE ENTRALGO,
Notary of the Government pro tem.

In St. Augustine, on the same day, month and year, I made known the preceding decree to Don Farquhar Bethume. I attest.

(Signed) ENTRALGO.

In St. Augustine, 2d March, 1814. Seen—The documents which are annexed are taken for presented. Let the memorialist produce the customary proof of the particulars to which he refers, the witnesses appearing to testify before his honor the auditor of war, to whom it is referred, with the assistance of Don Jose Mariano Hernandez, who is appointed interpreter, there being no public interpreter; for if it should be necessary, after accepting and swearing to his charge before the same auditor, first certifying by the present notary the particulars established by this government in the concession of lands; upon which, the enquiry should be made—and all being done, let it be reported with the proceedings, to determine on sight of them. Judges' fees, sixteen reals.

(Signed) KINDELAN.
(Signed) ARREDONDO.

Before me, JUAN DE ENTRALGO,
Notary of the Government pro tem.

In St. Augustine, on the same day, month and year, I made known the antecedent decree to Don Farquhar Bethune. I attest.
(Signed) ENTRALGO.

On the same day, I notified Don Jose Mariano Hernandez, the appointment of interpreter made to him in said decree; and on being informed, he said that he accepted, and did accept, promising, under oath, in form, which he made before his honor the auditor of war, to discharge his duty well and faithfully, and signed it with his honor said auditor—of which I attest.
(Signed) ARREDONDO.
(Signed) JOS. M. HERNANDEZ.

Before me, JUAN DE ENTRALGO,
Notary of the Government pro tem.

I certify and attest, that the conditions referred to in the preceding decree are, first, that the grantee, his heirs or successors, shall, within two years from the date, when the titles are issued to them, build a house, with its chimney, proportioned to their means and family. Second, it shall be the duty of the same to have the land cleared for cultivation, as well as, within the term of five years, to have at least five head of horned cattle for every fifty acres of land that are unfit for producing fruit; and that whenever any part of it shall be required for public works or fortifications, they shall be given up, by giving an equal quantity to the grantee at some other vacant place of his choice, or they shall either be paid their value, according to appraisement. And finally, that although the donation and concession is made in perpetuity, the receiver nor his descendants shall not alienate nor transfer the land to other dominion, until the lapse of the term of ten years of possession; and even then, he ought to execute the first sale with permission of the government, and otherwise it shall be void. Which conditions are apparent in the titles issued by this government to some settlers, after having received the royal order on concessions of lands. And in compliance with what is ordered, I seal and sign, in St. Augustine, of Florida, the second of March, one thousand eight hundred and fourteen.
[Signet.] (Signed) JUAN DE ENTRALGO,
Notary of the Government pro tem.

In the city of St. Augustine, of Florida, on the third of March, of one thousand eight hundred and fourteen, before his honor Don Juan de Arredondo y Santelices, appeared to testify, Don Ezra Patch, citizen and planter of this province, widower, native of Connecticut, in the United States of America, from whom his honor, before me, the notary, and with the assistance of Don Jose Mariano Hernandez, who served as interpreter, received the oath, which he made according to law, under which he promised to speak the truth of what he knew to what he should be asked; and being asked concerning the preceding memorial presented by Don Farquhar Bethune, informing

him of the documents that accompany, he said, that he knew for certain that the memorialist has cultivated, for the space of more than ten years, the lands which the government granted to him, on Halifax river, calculating this time with that he had in others, near Indian river, of which he made a relinquishment; that as the witness has lived about the territory of Musquito a long time, employed in agriculture, he has been, on distinct occasions, on Bethune's plantation, comprised in the certificate and plat which he has before him, and he can assure that the lands are cleared, that there are buildings for habitation of whites and blacks, stock of different kinds, and all else necessary on a plantation, having complied, in the opinion of the witness, with the conditions established by this government; and vouches that all is true, in charge of his oath; that he is forty-seven years of age; and having read to him this his declaration, he said it was correct, and he signed it, with his honor the auditor and the interpreter. To which I attest.

(Signed) ARREDONDO.
(Signed) EZRA PATCH,
JOS. M. HERNANDEZ.

Before me, JUAN DE ENTRALGO,
Notary of the Government pro tem.

In St. Augustine, of Florida, on the same day, month and year, before his honor the auditor of war, appeared Don Gabriel Guillermo Perpall, native of Mahon, resident and settler of this province, of the married state, a witness presented by Don Farquhar Bethune, for the proof that he is ordered to make, to whom his honor the auditor, before me, the notary, administered the oath, which he took, according to law, under which he promised to speak the truth in what might be asked him; and being asked concerning the memorial presented by the petitioner, and the documents which accompany it, he said that it is true that Don Farquhar Bethune has cultivated and planted the lands which he has on Halifax river, since the government granted them to him; and besides, he has put up buildings, fences, and all else necessary on a plantation, with stock, and has cleared it for cultivation—which the witness has seen, and is publicly and notoriously known; and answers, that all is true, in charge of his oath; that he is forty-five years of age; and having informed him of the contents of his declaration, he said it was correct, and signed with his honor the auditor. To which I attest.

(Signed) ARREDONDO.
(Signed) GAB'L G. PERPALL.

Before me, JUAN DE ENTRALGO,
Notary of the Government pro tem.

In the city of St. Augustine, of Florida, on said day, month and year, Don Farquhar Bethune, for the proof which he is ordered to make, presented Don Jose Mariano Hernandez, a native, resident and

merchant of this city, of the married state, of whom his honor the auditor of war received oath, before me, the notary, which he made according to law, under which he promised to speak the truth to what he knows of what he might be asked concerning the memorial of the petitioner, shewing him the documents which with it were presented; that it is positively known to him, from what he has seen, that Don Farquhar Bethune has cultivated the lands which are mentioned in the certificate which has been manifested to him, since the government made a concession of them to him; and that it is true he has opened, cleared and made improvements on said lands, such as houses, fences, and all else necessary to a well managed plantation, with stocks of animals, with which, in the opinion of the witness, he has complied with the conditions established for the attainment of title of property; and answers that all is the truth, in charge of his oath; that he is twenty-six years of age: and being informed of the contents of this his declaration, he said it was correct, and signed it, with his honor the auditor of war. To which I attest.

(Signed) ARREDONDO.
(Signed) JOS. M. HERNANDEZ.

Before me, JUAN DE ENTRALGO,
Notary pro tem. of the Government.

FINAL DECREE.

Seen—By the proof which precedes and documents presented by Don Farquhar Bethune, to accredit his long possession and cultivation which he made of the lands which this government granted to him on Halifax river, as is stated in the certificate exhibited; and that he has complied with the conditions which are established, to make himself entitled to the title of property. Let there be issued that which is solicited by the said Bethune, with the customary form, according to the plat which is found annexed to this preceding, the costs of which will be paid by the interested with twenty-four rials, judges' fees.

(Signed) KINDELAN.
(Signed) ARREDONDO.

Decreed by his Excellency Don Sabastian Kindelan y Oregon, (Cabellero,) gentlemen, of the order of St. James, brigadier of the national armies, military governor and political chief of this city of St. Augustine of Florida, and its province, and he signed it with the advice of his honor the auditor of war, on the fourth of March, one thousand eight hundred and fourteen.

(Signed) JUAN DE ENTRALGO,
Notary pro tem. of the Government.

In St. Augustine, on the same day, month and year, I made known the preceding decree to Don Farquhar Bethune. I attest.

(Signed) ENTRALGO.

NOTE.—That on the same day, the title of property which is ordered was issued. I attest.

(Signed) ENTRALGO.

I certify the preceding to be a true and correct translation of the Spanish document annexed.

JOS. S. SANCHEZ,
In. and Tr. Sup. Court E. D. F.

Royal Title to Bethune.

Don Sabastian Kindelan y Oregon, gentleman of the order of St. James, brigadier of the national armies, military governor and political chief of the public exchequer of this city of St. Augustine, of Florida, and its province: Whereas, in royal order communicated to this government on the twenty-ninth of March, one thousand seven hundred and ninety, by the captain general of the island of Cuba and two Floridas, it is provided, among other things, that to those strangers who of their own accord should present themselves and swear vassalage to our sovereign there, should be granted and surveyed lands gratis, in proportion to the workers that each family might have: that Don Farquhar Bethune, having presented himself as one of those, there were granted to him, by this government, under date of the sixth of August, one thousand eight hundred and three, one thousand and one hundred acres of land, at the plantation formerly cultivated by one Captain Ross, near Indian river, of which land he made a relinquishment; and there were granted to him an equal number of acres, on the twenty-fifth of September, one thousand eight hundred and five, on Halifax river, situated under the following boundaries: on the north by lands of Don Samuel Williams; on the east by Halifax river; and on the south and west by vacant lands, as appears from the certificate given by the private surveyor, Don Juan Purcell, apparent in the proceedings moved by the said Don Farquhar Bethune, soliciting there should be issued to him the corresponding title of the said one thousand and one hundred acres of land. Wherefore, and in consideration that there has already elapsed more than the ten years of uninterrupted possession, to obtain the useful and direct dominion to the said land, having built houses and cultivated them, and finally complied with all the other conditions of like nature to be seen in the titles issued to other settlers, as appears and is proven in said proceedings, I have thought proper to grant, as in the name of his majesty I do grant, to the said Farquhar Bethune, the aforesaid one thousand and one hundred acres of land, for himself, his heirs and successors, in absolute property; and in issuing to him, as by these presents I do, the corresponding title, by which I separate the national exchequer from the right and dominion that to said land it had, and I cede and transfer it to the said Bethune, his heirs and successors, that in consequence thereof they may possess, use, and enjoy it as their own, with all its inlets, outlets, uses, customs, rights and services, which it had, *have*, and in right and in law thereto appertain and may belong; and it being their will, they may

sell, cede, transfer and alienate the same as may best suit them. To all of which I interpose my authority, as far as I can, and in law ought to, in virtue of the sovereign will. Given under my hand, and countersigned by the undersigned notary of the government pro tem. and public exchequer, in this city of St. Augustine, of Florida, the fourth of March, one thousand eight hundred and fourteen.

(Signed) KINDELAN.

By order of his Excellency,
JUAN DE ENTRALGO,
Notary of the Government,
and P. Ex. pro tem.

I certify the preceding to be a true and correct translation of the Spanish document annexed.

JOSEPH S. SANCHEZ,
Interpretor and Translator of the
Superior Court, E. D. F.

No. 9.

Offered and read in evidence by United States. Objected to by claimant, but admitted by the court.

Memorial and Grant to Tod.

SENOR GOVERNOR:

Lyndsey Todd, a new settler admitted under the protection of His Majesty, with the respect due, I say to your Excellency, that I have determined to establish myself at Musquito to cultivate those lands at a place called New Smyrna, which measurement ought to begin where the land asked for by William Williams ends, and for that purpose I pray your Excellency will be pleased to grant me there six hundred acres that correspond to the negroes of my property, for which favor I will remain grateful to your Excellency.

St. Augustine, 20th of July, 1803.

(Signed) LYNDSEY TODD.

Decree.

St. Augustine, 20th of July, 1803. Let the commandant of engineers report.

(Signed) WHITE.

Report.

Informed of the contents and complying with the preceding decree, I make known to your Excellency, that the cultivation of the lands asked for by the petitioner at the place pointed out, will not (prevent or) impede the defence of the province, wherefore as regards

the branch of fortifications, they may be granted to him the number of acres that your Excellency may think proper to determine at your pleasure.

St. Augustine of Florida, 21 of July, 1803.
(Signed) NICOLAS BARCELO.

Final Decree.

St. Augustine, 21st of July, 1803.—Granted to this party the lands which he solicits, without injury to third persons, and until there be measured to him that which correspond to him according to the number of workers he may have for its cultivation, well understood that he is to take possession of said lands within the term of six months.
(Signed) WHITE.

I certify the preceding to be a true and correct translation of the Spanish document annexed.

JOS. S. SANCHEZ,
Interpreter and Translator of the Superior Court, E. D. F.

Proceedings by Tod to obtain Royal Title.

Don Juan de Piena, Lieut. of the 3d battalion of the regiment of Cuba, and Secretary of Government.

I certify that to a memorial presented by Don Lyndsey Todd soliciting six hundred acres of land in the Musquito territory, at a place named New Smyrna, which measurement ought to commence where that of Don Guillermo Williams' end; the following decree was this day made. Granted to this party the lands which he solicits, without injury to third persons, and until there be measured to him, that which corresponds to the number of workers he may have; being understood that he shall take possession of said lands within six months from the date hereof.

WHITE.

And that it may serve as security to the interested, I give the present in St. Augustine of Florida, the 21st of July, 1803.
(Signed) JUAN DE PIENA.

I certify the preceding to contain a true and correct translation of the Spanish document annexed.

JOS. S. SANCHEZ,
Translator & Interpreter Superior Court, E. D. F.

In virtue of the commission which has been conferred upon me by

His Excellency Don Enrique White, civil and military governor of the province, on the 7th day of October, in the year 1803.

I certify that I have measured and bounded to Don Lyndsey Tod a piece of land which contains six hundred acres of land, situated in the territory of Mosquito's, bounding on the east by marshes, on the north by lands of Don Guillermo Williams, on the south by lands of Don Robert McHardy, on the west by vacant lands, which figure and demarcations are those denoted in the preceding plat, and that it may appear, I sign it in St. Augustine of Florida, nineteenth of December, in the year 1803.

(Signed) JUAN PURCELL.

[See original, page 169.]

SENOR GOVERNOR:

Don Lyndsey Tod*d*, new settler, inhabitant of this province, with due respect to your Excellency, says: that by the certificate which is duly annexed, the concession is proven which this government made to him of six hundred acres of land, in the territory of Musquito, which boundaries and situation is manifested by the plat which also is exhibited, made by the provisional surveyor Don Juan Purcell, and as there have elapsed already more than the ten year's of possession in said lands, which lands he has cultivated and improved with buildings, fences and the rest that is necessary to render himself entitled to the title of property. Wherefore, I supplicate your Excellency will be pleased to admit the corresponding proof, which I am ready to make, of what I have stated, that in consequence thereof your Excellency may be pleased to order to be issued to him the said title of property, which favor I hope for, from the justice of your Excellency.

St. Augustine of Florida, 20th June, 1815.

By the request of the interested who is absent in the country.
GUILLERMO TRAVERS.

Decree.

St. Augustine, 20th June, 1815. Pass it to his honor the auditor of war.

(Signed) ESTRADA.

Before me, JUAN DE ETRALGO,
Notary pro tempore of Government.

In St. Augustine, on the same day, month and year, I made known the preceding decree to Lyndsey Tod. I attest,

(Signed) ENTRALGO.

Seen. The documents annexed are taken for, presented, and admitted the proof which is offered, let the witnesses appear to testify before his honor the auditor of war, and that being done, the present notary first certifying the condition imposed by this government, touching the lands granted to new settlers, let the proceedings return to the council for the corresponding decree.

Judges fees sixteen rials.

(Signed) ESTRADA.

(Signed) ARREDONDO.

It was provided by his Excellency Don Juan Jose de Estrada, lieutenant colonel of the army, and commander of the third battalion of the regiment of infantry of Cuba, and civil and military governor of this city of St. Augustine of Florida and its province, who signed it with the advice of his honor the auditor of war, on the twenty-first of June, one thousand eight hundred and fifteen.

(Signed) JUAN DE ENTRALGO,
Notary pro tempore
of the Government.

In St. Augustine of Florida, on the same day, month, and year, I notified the preceding decree to Don Lyndsey Tod. I attest,

(Signed) ENTRALGO.

I certify and attest: that the conditions referred to in the preceding decree, are,

First. That the grantee, his heirs and successors shall within two years from the date in which the titles are issued, build on the lands granted, a house with a chimney, proportioned to his means and family.

Second. That it shall be the duty of the same, to have the land cut down and cleared for the purpose of planting, as also within the term of three years, to have at least five head of neat cattle for each fifty acres of land unfit for cultivation, and that whenever it should be required or any part thereof, for any public works or fortifications, he shall and have others granted at another vacant place, or he will be paid for them according to valuation; and

Finally. That although the donation and consession is made in perpetuity, the receiver nor his descendants shall not alienate nor transfer to other dominion, the lands until the expiration of ten years possession, nor then, without executing the first sale with the per-

mission of the government, and otherwise it shall be void, which conditions are seen in the titles that this government has issued to some settlers, after having received the royal order on concessions of lands. And in compliance with what is ordered, I signet and sign the present, in St. Augustine of Florida, twenty-first of June, eighteen hundred and fifteen.

(A notarial signet.)

(Signed) JUAN DE ENTRALGO,
Notary pro tempore
of the Government.

In St. Augustine of Florida, thirtieth of June, eighteen hundred and fifteen, before his honor Don Juan de Arredondo y Santelices, auditor of war in this city, appeared Robert McHardy, a native of Scotland, of the married state, his occupation a planter and resident of this province, a witness presented by Lyndsey Tod to prove what he has offered, from whom, before me, the notary, the oath was received, which he made according to law, under which he promised to speak the truth in what he should know of what should be asked him, and being examined concerning the petition which precedes, of Lyndsey Tod; he said, that as a near neighbor and adjoining the lands that this government conceded to Lyndsey Tod, it is known to him that he has cultivated them, and that he has made fences, buildings and other improvements, which at this day exists, particularly a house built of stone, thereby entitling himself to the title of property, there having elapsed more than ten years of possession, and answers that all is true under charge of his oath, that he is thirty-nine years of age, and informed of the contents of this, his testimony, he signed with his honor. To which I attest.

(Signed) ARREDONDO.

(Signed) ROBT. McHARDY.

Before me, JUAN DE ENTRALGO,
Notary P. T. of Government.

On the same day, month, and year, Don Lyndsey Tod, for the information he is giving, presented as a witness, Don Francisco Pellicer, native of Mahon, planter in this province, of the married state, from whom his honor, the auditor of war, received the oath which before me, the notary, he made according to law, under which he promised to tell the truth, in what he might know, to what he should be asked about the petition that precedes: he said, that he knows that Lyndsey Tod commenced planting the lands since the government granted them to him, and are denoted in the certificate that he has presented; he commenced cultivating them, and remained upon them more than four years, clearing what was necessary for planting, with his negroes; and that he has also built dwelling-houses, including a stone house and barn houses, with all the rest that is required

in complying with the conditions established to render himself entitled to the title of property; and answers that all is true in charge of the oath he made; that he is sixty-two years of age; and having read to him his declaration, he signed, with his honor the auditor of war. To which I attest.

(Signed) ARREDONDO.
(Signed) FRANCO. PELLICER.

Before me, JUAN DE ENTRALGO.
Notary pro tem. of Government.

On the same day, month, and year, before his honor the auditor of war, appeared Don Francisco Pellicer, Junior, native resident and planter of this province, of the unmarried state, from whom, before me the notary, was received the oath in form of law, offering to tell the truth of what he knew, to what he should be asked; and being asked respecting the memorial of the petitioner, he said: That he has been several times at the plantation of Don Lyndsey Tod, whom he has seen cultivating the same with his negroes, being the same lands that are expressed in the annexed certificate of the secretary of the government, upon which he has made clearings, built houses out of lumber, and one of stone which actually exists; and it is known that there are more than ten years since he took possession of the said lands, by which he has complied with the conditions prescribed in the concessions of this nature, and answers that all is true under the oath he has made; and being apprised of the contents of this his declaration, he signed it, with his honor the auditor of war, which I attest—manifesting being of the age of twenty-seven years.

(Signed) ARREDONDO.
(Signed) FRANCO. PELLICER.

Before me, JUAN DE ENTRALGO,
Notary of Government pro tem.

FINAL DECREE.

Seen. By the truth of the documents presented, and proof that precedes, produced by Don Lyndsey Tod to prove the concession, long possession, cultivation, and improvements which he has made in compliance with the rules prescribed by the government about lands, which, to the number of six hundred acres, were granted to him at a place called New Smyrna; it is declared that he has made himself entitled to the title of property, which he solicits, and in consequence thereof, issue to him in the usual terms, according to the dimensions and boundaries manifested in the plat exhibited, the title of property. Judge's fees, twenty-four rials.

(Signed) ESTRADA.
(Signed) ARREDONDO.

It was so provided by Don Juan Jose de Estrada y Toro, Lieutenant-Colonel of the Royal Armies, Governor pro tem., civil and military, of this city of St. Augustine, of Florida and its province, who signed it, with the advice of his honor the auditor of war, on the first of June, eighteen hundred and fifteen.

(Signed) JUAN DE ENTRALGO,
Notary of the Government pro tem.

In St. Augustine, on the same day, month, and year, I notified the preceding decree to Don Lyndsey Tod.

(Signed) ENTRALGO.

I certify the preceding translation to be correctly made from the Spanish document annexed.

JOS. S. SANCHEZ,
In. and Tr. Sup. Court, E. D. F.

Royal Title to Tod.

Don Juan Jose de Estrada y Toro, Lieutenant-Colonel of the Royal Armies, Commander of the third battalion of the regiment of Infantry of Cuba, and Governor pro tem. of this city of St. Augustine and its province.

Whereas in royal order communicated to this government on the twenty-ninth of March, one thousand eight hundred and *ninety*, by the captain-general of the Island of Cuba and the two Floridas, it is provided, among other things, that to those strangers who of their own accord should present themselves to swear vassalage to our sovereign, there should be measured lands gratis, in proportion to the workers that each family may have. That Don Lyndsey Tod, having presented himself, solicited of the government, and there were granted to him on the twenty-first of July, one thousand eight hundred and three, six hundred acres of land in the Musquito Territory, at a place called New Smyrna, bounding on the east by marshes, on the north by lands of Don Guillermo Williams, on the south by lands of Don Robert McHardy, and on the west by vacant lands, as appears by the certificate, that on the same day was issued to him through the secretaries office, and is found annexed to the proceedings moved in solicitation of having the corresponding title of property issued to him; which said land measures, north, thirty degrees, west, thirty-three chains and ten links, and south, sixty degrees west, one hundred and eighty-one chains and fifty links, as appears by the certificate and plat of the surveyor, Don Juan Purcell, which is also annexed to the proceedings aforesaid; and as there had not been any title issued to him for security and proof of his dominion to the said land in the form it was done with others; that there has elapsed more than the ten years of uninterrupted possession to obtain the useful and direct dominion to the said lands; built houses upon them, cultivated them, and finally complied with all the other conditions which the government established for the

grants and concessions of this nature, to be seen in the titles issued to other settlers, as is shown by the proceedings which the interested moved, soliciting that there should be issued to him the corresponding title to the land which he already has measured and bounded, and of which he is in possession. Wherefore, and in consideration of which, having first had the advice of the auditor of war, I have thought proper to grant, as in the name of his majesty I do grant to the said Lyndsey Tod, the six hundred acres of land of which the aforesaid plantation consists, in absolute property, for himself, his heirs and successors; and in issuing to him, as by these presents I do, the corresponding title by which I separate the royal exchequer from the right and dominion which to said land it had, and I cede and transfer it to the said Tod, his heirs and successors, that in consequence thereof they may possess it as their own, use and enjoy it free of incumbrance, with all its inlets, outlets, uses, customs, rights and services, which it had, have, and of right and in law appertain thereto, or may belong; and it being their will, they may sell, cede, transfer, and alienate it, as may best suit them: To all of which I interpose my authority as far as I can, and in law ought to, in virtue of the will of the sovereign. Given under my hand, and countersigned by the notary pro tem. of the government and royal exchequer, in this city of St. Augustine of Florida, first of July, one thousand eight hundred and fifteen.

(Signed) JUAN JOSE DE ESTRADA.

By order of his excellency,

JUAN DE ENTRALGO,
Notary pro tem. of the Gov. and R. E.

I certify the preceding to be a true and correct translation of the Spanish document annexed.

JOS. S. SANCHEZ,
In. and Tr. Sup. Court E. D. F.

No. 10.

Offered and read in evidence by United States.

Objected to by claimant, but admitted by the court.

Memorial and Grant to Vaughan.

SENOR GOVERNOR AND COMMANDER IN CHIEF:

Juan Daniel Vaughan, with all submission to your Excellency, he prays you will be pleased to grant him the number of acres of land upon Amelia Island that may correspond to his family, upon a piece of vacant land on the north of those that are solicited by Don Juan Edwards; which favor he hopes to obtain from the great charity of your Excellency. St. Augustine of Florida, 1st of March, 1797.

(Signed) JUAN DANIEL VAUGHAN.

DECREE.

St. Augustine, 2d March, 1797. Let the commandant of engineers report.

(Signed) WHITE.

REPORT.

SENOR GOVERNOR AND COMMANDER IN CHIEF:

I find no objection to the petitioner's settling himself upon the lands which he solicits upon Amelia Island, it meeting the approval of your excellency; but as in future the government may have reasons which would oblige it to order those inhabitants to retire to the lands upon the St. Johns river, I am of opinion that they should be conditioned to the petitioner, that he shall have no right to ask to be compensated there for any injuries whatever that may result to him; it is all that I ought to inform your excellency, that you may be pleased to resolve that which would be your pleasure. St. Augustine, 3d of March, 1797.

(Signed) PEDRO DIAS BENIO.

FINAL DECREE.

Granted to the petitioner the land which he solicits, without injury to a third person, and according to the number of his family, and express condition of conforming himself with what is expressed in the preceding report relative to not claiming remuneration for damages, in case that the better service of the king should require the inhabitants to retire to the lands in the interior, upon the river St. Johns.

(Signed) WHITE.

There is a certificate given.

(Signed) RENGIL.

I certify the preceding to be a true and correct translation of the Spanish document annexed.

JOS. S. SANCHEZ,
In. and Tr. Sup. Court E. D. F.

Proceedings by Vaughan to obtain Royal Title.

Don Manuel Rengil, Secretary by his majesty of the government of this province, &c.

I certify, that to a memorial presented under date of the first of this month, by Juan Daniel Vaughan, soliciting to establish himself on Amelia Island, upon a piece of land actually vacant, on the north of those which are asked for by Don Juan Edwards, the following

final decree was had: "Granted to the petitioner the land which he solicits, without injury to third persons, according to the number of his family, and upon the express condition of conforming himself with what it stated in the preceding report relative to his not claiming remuneration for damages, in case that the better service of the king should require them to be disoccupied, and the inhabitants to retire to the interior, upon those on the river St. John.—WHITE." And that it may appear and serve the interested, I give the present in St. Augustine of Florida, sixth of March, 1797.

(Signed) MANUEL RENGIL.

In virtue of the commission conferred upon me by his Excellency, Don Enrique White, civil and military governor of this province, on the 7th October, 1803.

I certify that, with the intervention of the captains, Don Fernando de la Puente, and Don Santiago Cashen, I have measured and bounded to Don Juan Vaughan, a piece of land that contains two hundred and fifty acres, situated upon Amelia Island, bounded on the west by marshes; on the north, by lands of Don Antonio Suarez; on the south, by lands of Don Juan Edwards; and on the east by vacant lands, which figure and demarcations are those denoted by the following plat; and that it may appear, I sign it on Amelia Island, 14th day of December, 1807.

(Signed) JUAN PURCELL.

[See original, page 182.]

SENOR GOVERNOR:

Don Juan Daniel Vaughan, inhabitant of this province, with due respect to your Excellency, says: That he has complied with the conditions imposed by this government, to entitle him to the title of absolute property of the two hundred and fifty acres of land, which were granted to him by this said government, on Amelia Island, in this province, where I am settled; wherefore, I supplicate your Excellency will be pleased to permit him to produce witnesses to prove what he has stated; with which proof there may be issued to him the title according to the plat, with which the secretary of this government, which proves the grant he duly presents. It is a favor which he promises himself to receive from the justice of your Excellency. St. Augustine, of Florida, 16th of June, 1821.

(Signed) JOHN D. VAUGHAN.

DECREE.

St. Augustine, 15th June, 1821. The documents annexed are taken for presented. I admit the proof which this party offers. The witnesses appearing to swear according to law, and on sight of it, I will order what is right.

(Signed) COPPINGER.
Before me, JUAN DE ENTRALGO,
Notary of the Government.

In St. Augustine, on the same day, month, and year, I notified the preceding decree to Don Juan D. Vaughan. I attest.

(Signed) ENTRALGO.

In the city of St. Augustine, of Florida, on the eighteen of June, eighteen hundred and twenty-one, appeared before me, the notary, Don Jorge Atkinson, a resident native, settled in this province, from which I received the oath which he made according to law; promising to speak the truth of what he knew, about what he should be asked, and being asked concerning the memorial which precedes, he said: That there was more than twenty years, he knows, that Don Juan Vaughan is settled on Amelia Island, upon the land which is denoted by the plat and certificate which are annexed to said memorial; at which place he has constantly lived, having buildings, cultivating the lands, and complying exactly with the conditions imposed by the government, to make himself entitled to the title of property, and answers all is true, in charge of his oath he has taken, that he is thirty-eight years of age, and being informed of the contents of this declaration, he signed it as correct; to which I attest.

(Signed) JORGE ATKINSON.
(Signed) JUAN DE ENTRALGO.

Followingly appeared Don Francisco Pons, native of this city, resident merchant in the town of Fernandina, from whom I received the oath which he made according to law, promising to tell the truth, in what he knew; and being asked concerning the preceding memorial of Don Juan Vaughan, he said, that in the space of ten years, that he has been travelling about Amelia Island, he has always known the said Vaughan settled upon the land, which he there possesses, by concession from the government, where he occupies himself in cultivation, having his slaves employed, and forming a well organized plantation, with its buildings, fences, &c., and according to public notoriety there are more than twenty years that the said Vaughan has settled upon the said place, and answers that all is true, in charge of his oath, that he is thirty-five years of age, and signed it, to which I attest.

(Signed) FRANCISCO PONS.
Before me, JUAN DE ENTRALGO.

Act continued. Appeared Don Bartolome de Castro y Ferer, resi-

dent and settler of this province, from whom I received oath according to law, promising to speak the truth of what he knew, to what he might be asked; and being asked as the others were, he said, that he could assure that Don Juan Daniel Vaughan has complied exactly with the conditions imposed by this government, to be enabled to obtain title of property of the lands granted, because upon those which are possessed by said Vaughan, bounding upon the lands of the heirs of Antonio Suarez and Juan Edwards, he has establishment for many years, and he has cultivated them without intermission, and answers that all is true, under charge of his oath, that he is more than twenty-five years, and signed it, to which I attest.

(Signed) BARTOLOME DE CASTRO Y FERER.
Before me, JUAN DE ENTRALGO.

FINAL DECREE.

St. Augustine, 18th June, 1821. Seen:—And it is proved completely by the testimony that precedes, that Don Juan Daniel Vaughan has complied as is required, with the conditions prescribed by the government, for granting in absolute property and dominion, the lands granted, of the nature of those of the two hundred and fifty acres that he possesses, on Amelia Island, according to the certificate presented; therefore, issue to him the title of property which he solicits, according to the plat which he has exhibited, and to the customary forms.

(Signed) COPPINGER.
Before me, JUAN DE ENTRALGO.
Notary of the Government.

In St. Augustine, on the same day, month, and year, I notified the preceding decree to Don Juan Daniel Vaughan. I attest.

(Signed) ENTRALGO.

I certify the preceding documents, numbered from one to four, to be true and correct translations of the Spanish documents annexed.

JOS. S. SANCHEZ,
In. and Tr. Sup. Court, E. D. F.

Royal Title to Vaughan.

Don José Coppinger, colonel of the national armies, military governor, political chief, and sub-delegate of the public exchequer in this city of St. Augustine and its province: whereas, in royal order communicated to this government, on the twenty-ninth day of October, one thousand seven hundred and ninety, by the captain general of the island of Cuba and the two Floridas, it is ordered among other things, that to the strangers who of their own accord should present themselves to swear vassallage to the sovereign, there should be granted and measured lands gratis, in proportion to the workers that each family may have. That Don Juan Daniel Vaughan having pre-

sented himself, he solicited of the government, and there were granted to him, on the fourth of March, one thousand seven hundred and ninety-seven, two hundred and fifty acres of land, on Amelia Island, in this province, which said lands, measured and bounded by the surveyor, Don Juan Purcell, resulted in this form; one line runs north forty-seven degrees east, ninety chains; and another runs north eighty degrees east, fifty-five chains, bounding on the west by marshes; on the north by lands of Don Antonio Suarez; on the south by lands of Don Juan Edwards; and on the east by vacant lands, according to what appears from the certificate issued by the secretary's office of the government, under date of the sixth of March aforesaid, and from the plat made by said surveyor, dated the fourteenth of December, one thousand eight hundred and seven; all of which is annexed to the proceedings instituted by said Vaughan; soliciting title in absolute property to said land, which he has in possession; and as there never had been issued any title whatever to him, for his security and proof of his dominion to the land aforesaid, in the form executed with other settlers, that there has already elapsed more than ten years of uninterrupted possession, to obtain the useful and direct dominion to the said lands, having built houses, cultivated them, and finally complied with all the other conditions which the government establishes for the grants and concessions of land of this nature, to be seen in the titles issued to other settlers, as is shown by the said proceedings, which exists in the office of the notary of the government; wherefore, I have by my decree of this day, had upon said proceedings granted, as in the name of his majesty, I grant to the aforenamed Don Juan Daniel Vaughan, the aforesaid two hundred and fifty acres of land, at the place aforesaid, for himself, his heirs and successors, in absolute property; and in issuing to him as by these presents, I do issue, the corresponding title, by which I separate the public exchequer from the right and dominion, which to said land it had, and I cede and transfer it to the aforenamed Don Juan Daniel Vaughan, his heirs and successors, that in consequence thereof, they may possess it as their own; use and enjoy it free of incumbrance, with all its inlets, outlets, uses, customs, rights, and services, which it had, have, and of right and in law thereto appertain and may belong; and it being there will, they may sell, cede, transfer, and alienate the same, as may best suit them. To all of which I interpose my authority as far as I can, and in law ought to, in virtue of the will of the sovereign. Given under my hand and countersigned by the undersigned notary of the government and public exchequer in this said city of St. Augustine, of Florida, eighteenth of June, one thousand eight hundred and twenty-one.

(Signed) JOSE COPPINGER.

By order of his excellency,

JUAN DE ENTRALGO,

Notary of Government and Royal Domain.

I certify the preceding to be a true and correct translation of the Spanish documents annexed.

JOS. S. SANCHEZ,
In. and Tr. Sup. Court, E. D. F.

No. 11.

Offered and read in evidence by U. States, objected to by claimant, but admitted by the court.

Memorial and Grant to Jordine.

SENOR GOVERNOR and COMMANDER IN CHIEF:

Guillermo Jurdine, inhabitant of this province, with the respect due to your Excellency, says, that he is in possession of a piece of land on Amelia Island, adjoining those of Furgeson, known as Myrtle Grove, sufficient for your petitioner and his small family, which are composed of six whites; wherefore, he prays your Excellency will be pleased to grant him the said land. It is a favor he hopes to merit from the impartial justice of your Excellency. Amelia Island, 15th June, 1797.

(Signed) WILLIAM JURDINE.

DECREE.

St. Augustine, 16th of June, 1797.

Let the commandant of engineers report.

(Signed) WHITE.

SENOR GOVERNOR & COMMANDER-IN-CHIEF:

I find no objections to the lands being granted to the petitioner, which he is in possession of, on Amelia Island, if your Excellency thinks proper to grant them, but as circumstances may occur in future, which would compel the government to order that the inhabitants settled on Amelia Island should retire to the lands on St. Johns, I am of opinion that they be conditioned that the petitioner shall have no right to ask to be remunerated by the royal exchequer, for the injuries he may sustain; it is all I ought to inform your Excellency of, that you may be pleased to resolve what you think proper.

(Signed) PEDRO DIAS BENIO.

FINAL DECREE.

St. Augustine, 17th of June, 1797.

As is asked for, but under the express condition that he shall have no right to ask for the damages and injuries that may be occasioned

him in the event he be ordered to abandon said lands in case of invasion or in others that may interest the better service of the king. It being also understood to be made without injury to third persons.

(Signed) WHITE.

A certificate was given.

(Signed) PIENA.

I certify the preceding to be a true and correct translation of the Spanish document annexed.

JOS. S. SANCHEZ,
Interpreter & Translator,
Sup'or Court, E. D. F.

Procedings by Jordine to obtain Royal Title.

Don Juan de Piena, sub-lieutenant of the 3rd battalion of the regiment of Cuba, and secretary pro tem. of this general command.

I certify that to a memorial presented by Guillermo Jurdine under date of the 15th inst. soliciting there should be granted to him a piece of land on Amelia Island, known by the name of Myrtle Grove, which are bounded by those of one Furgeson, the following decree was made:

"As is asked for, but upon the express condition of having no right to claim the damages and injuries that might be caused him whenever he should be ordered to abandon said lands, in the events of invasion or that the better service of the king should require it, and it being also understood that this concession is made without injury to third persons.

WHITE."

And that it may appear and serve the interested, I give this in St. Augustine of Florida nineteenth of June, 1797.

(Signed) JUAN DE PIENA.

In virtue of the commission which has been conferred upon me by His Excellency, Don Enrique White, civil and military governor of this province on the seventh of October, 1807.

I certify that I have measured and bounded to Doña Isabel Jordine, a piece of land situated on Amelia Island, that contains three hundred acres of land, called Myrtle Grove, bounded on the west by marshes and waters of the river St. Mary's, on the north and east by lands of Don Domingo Fernandez, and on the south by lands of Don Juan Bachlott, which figure and demarcations are those denoted in the preceding plot, and that it may appear, I sign it in Amelia Island the 2nd of April, 1807.

(Signed) JUAN PURCELL.

[For plat, see origimal, page 191.]

SENOR GOVERNOR:

Dona Isabel Jordine, widow of Guillermo Jordine, inhabitant of this province, before your Excellency, with the greatest respect appear and say, that as is proven by the annexed certificate of the secretary of this government, there were granted to my deceased husband on the 15th of June, 1797, a piece of land on Amelia Island, at the place called Myrtle Grove, which said land is bounded by the lands of one Furgeson, which situation and limits are shown by the annexed plat, given by the private surveyor Don Juan Purcell, who with the necessary permission of your Excellency, proceeded to measure and bound, at my expence, said lands that are composed of the number of three hundred acres, and in virtue of the aforesaid concession, my husband settled himself with his family, at said place at that time, building houses for our dwelling, and the rest necessary, he cleared and cultivated the land without intermission of time; raised stock, and finally he complied with all that was possible, with the conditions prescribed by the government; and which ought to be observed by the grantees of lands to have them in absolute and legitimate property, in consequence whereof, and the notoriety of the possession, cultivation, and building of houses, the planting of fruit trees on said lands by your petitioner, as well by her husband in *her* life time; I supplicate your Excellency will be pleased to admit the customary proof by witnesses, in the number that may be necessary and sworn to testify in due form of law, respecting the particulars which I have stated, and resulting, according to my representation, your Excellency will be pleased to direct that the notary of the government may issue to me the corresponding title, in absolute property, of the three hundred acres of land which resulted from the survey, as the necessary time for it has elapsed, which will be a favor and justice, which I hope to merit and obtain from your Excellency.

St. Augustine of Florida, 17th of June, 1807.

Isabel Jordine not knowing how to sign, it is done by
(Signed) PEDRO PESO DE BURGO.

The documents annexed are taken for presented, let the party prove what she offers to, and it will be received through the public interpreter, if it should be necessary, proceeding first according to law, relative to the particulars stated by her, the notary first certifying the rule of the government for the sale of the dominion of the lands granted, to ascertain by this means, if the particulars which this party proposes to prove, are according to the rule of the government; and the proof being made, let it be reported, in order to provide, on sight of it, all the rest that is asked for.

Judges fees twleve rials.
(Signed) WHITE.

(Signed) LICENTIATE ORTEGA.

It was so provided by Don Enrique White, colonel of the royal armies, civil and military governor of this city of St. Augustine of Florida and its province, by His Majesty who signed it with the advice of His Lordship the lieut. auditor of war, and assessor general, on the third of June, one thousand eight hundred and seven.

(Signed) JOSE DE ZUBIZARRETA.
Not'y of the Gov't.

In St. Augustine, on said day, month, and year, I notified the preceding decree to Doña Isabel Jordine.

I attest:

ZUBIZARRETA.
Notary.

I certify that the conditions established by the government, and which are referred to in the preceding decree, are,

First. That the grantees, his heirs, and successors shall, within two years, calculated from the date on which there are issued to them the titles, build a house, with its chimney, proportioned to his means and family.

Second. That it shall be the duty of the same to have cut down and cleared for the purposes of planting, as also within the term of three years, to have at least five head of neat cattle for every fifty acres of land unfit for cultivation, and that whenever any part of it shall be required by the government for public works, or fortifications, he shall cede them and be reinstated in an equal number of acres, at another place that may be vacant and of his selection, or he will be paid for them according to valuation; and,

Finally. That although the donation and concession is made in perpetuity, the receiver nor his descendants shall not sell nor transfer the lands to other dominion, until the expiration of the term of ten years possession, and even then he shall not execute the sale *with* the permission of the government, and otherwise it shall be void, which conditions exist in the titles which were first granted by the said government to some settlers after having received the royal order upon concessions of lands. And in compliance with what is ordered, I signet and sign the present in St. Augustine of Florida, the twenty-fifth of June, one thousand eight hundred and seven.

(A notarial signet.)

(Signed) JOSE DE ZUBIZARRETA.
Not'y of Gov't.

In the city of St. Augustine, on the second of July, one thousand eight hundred and seven, Dona Isabel Jordine, for the enquiry which she has moved, and proof which she has been ordered to make, presented Don Manuel de la Puente, a distinguished soldier of the third battalion of Cuba, of the single state, of whom his Honor the lieut. governor, auditor of war, and assessor general, before me, the notary

received the oath he took by God and the holy cross, according to law, under which he promised to tell the truth of what he knows, of what might be asked him, and being asked concerning the petition which precedes, he said, from three to four years; that the father of the witness is settled on Amelia Island as commander and judge of the rivers, the witness has several times been under his orders, and by this means, and the plantation of the petitioner being near the garrison, the witness was at it many times, and can give certain account of its cultivation, and that much part of it is fenced and consequently cleared, there is a good dwelling house, and kitchen, and some other buildings for housing grains, domestic animals of various kinds, and also some cows from which the petitioner derived some profit in butter which she made to sell; and finally, he can say that the said plantation, at the time when he knew it, was provided with all that was useful for its cultivation, and the petitioner with four or five of her children, after the death of her husband, as witness has heard his father say, the same plantation was cultivated with the same care and application that the widow has stated that she has done, with her children; that this is all he knows, and has to say about the particulars that have been asked, and is true under the oath that he has taken; that he is thirty years of age, and does not come under the general law, of which he was informed, and also of the contents of his testimony, which he said was correct, and signed it, with His Lordship.

To which I attest:

(Signed) LICENTIATE ORTEGA.

(Signed) MANUEL DE LA PUENTE.

Before me,

JOSE DE ZUBIZARRETTA,
Notary of Gov't.

In the city of St. Augustine of Florida, on the same day, month, and year, the said Doña Isabel Jordine, for the proof she is making, presented Don Pedro Fitzpatrick, native of Ireland and resident of this neighborhood, of the single state; his profession a merchant; from whom his Honor, before me the notary, received the oath which he made by God and the holy cross, according to law, under which he promised to tell the truth in what he knows to what he might be asked, and being questioned relative to the memorial which precedes, he said: that it is little more than a year that he passed the last time by the plantation of the petitioner, upon which he had been at other times during the life of her husband, and can assure from that time, which is about six years, he saw that plantation in good order, and cleared, and fenced round all the land that was cultivated, with a dwelling-house, kitchen, stock, and all the other utensils necessary, that there is on all plantations well established as this was, and which has continued to be upon the same footing in the widows time, at the time he refers, with her labor and that of her children. And answers, that what he has said is all true in charge of his oath, that

he is twenty years of age, not being subject to the general laws of which he was informed, and also of this, his declaration, which he said was correct, and signed it with his honor.

To which I attest:

(Signed) LICENTIATE ORTEGA.

(Signed) PEDRO FRANCO. FITZPATRICK.

(Signed) JOSE DE ZUBIZARRETTA,
Notary of the Government.

In the city of St. Augustine, of Florida, on the same day, month and year, Dona Isabel Jordine, for the proof she is making, presented Don Juan de Entralgo, as a witness, who is a native of Havana, of the married state, who, before his honor the lieut. governor and auditor of war and assessor general, made oath before me, the notary, under which he promised to speak the truth in what knows of what might be asked him, and being questioned respecting the preceding memorial, he said, that in the year ninety-nine, as he can recollect, he went with others on a commission from the government to Amelia Island, and as the plantation of the petitioner, whose husband was then alive, is but a short distance, one day the garrison, with Don Manuel Bendicho and others, went to it; and he recollects well that it was well cultivated, particularly in corn and cotton crops, and that the dwelling house they were at resting, was very good, besides the kitchen to itself, and other small houses which he also saw, destined, as he supposed, to collect the crops in, and habitation for two negroes that were there also; that he also observed the fences of the plantation to be in good order, and many domestic animals of various kinds; that although he has not returned to the plantation since that time, he has heard it publicly said, the widow that represents it, with her children, with the same care and attention that it was done by her husband, and answers that what he has said is the truth, under the oath he has taken; that he is thirty years of age, not subject to the general laws in form of which he is informed, and being also acquainted with his declaration, he signed it with his honor, to which I attest.

(Signed) LICENTIATE ORTEGA.
(Signed) JUAN DE ENTRALGO.

Before me, JOSE DE ZUBIZARETTA,
Notary of the Gov't.

Seen: The proof made by documents and witnesses, by Doña Isabel Jordine, to establish her possession of the ten years in the lands granted on Amelia Island, called Myrtle Grove, which this government granted in the year ninety-seven, to her husband Guillermo Jordine, now deceased, is declared to be sufficient; and in consequence of it, and that it appears that as well in time of her husband as in her own, that they have been cultivated without intermission;

and that they have complied besides, with the other conditions prescribed by the government to obtain them in fee simple, his Excellency said that he ought to order, and did order, the issuing in favor of the petitioner, the corresponding title of them, which was solicited under the demarcations and limits expressed in the preceding plat, and with the other conditions that other titles have been issued, for which, and the proceedings moved by the petitioner, she will pay the costs and charges at a just valuation, including therein twelve reals assessors fees.

(Signed) WHITE.
(Signed) LICENTIATE ORTEGA.

It was so provided by Don Enrique White, Colonel of the royal armies, civil and military governor of this city of St. Augustine of Florida and its province, by His Majesty, who signed it with the advice of his lordship, the lieut. auditor of war and assessor general, on the third of July, one thousand eight hundred and seven.

(Signed) JOSE DE ZUBIZARRETA,
Notary of Gov't.

In St. Augustine, on the same day, month and year, I notified the preceding decree to Dona Isabel Jordine. I attest.

(Signed) ZUBIZARRETA, *Notary.*

Charge of cost of the preceding proceedings, made according to fee bill, in fee manner following:

a flourish.	To his Excellency, the Governor, civil and military, for two flourishes, 4 rials. - - - - -	4
a flourish.	Assessor General, for two assessors fees and assistance in taking the depositions, forty-six rials. -	46
a flourish	To me, the Notary, for my fees in the proceeding and title, with its copy, delivered the interested, ninety-ty-five rials, - - - - - - - -	95
	Rials,	145
	Dolls.	18 1

St. Augustine, 3d of July, 1807.

(Signed) JOSE DE ZUBIZARRETA,
Notary of Government.

I certify the preceding to be a true and correct translation of the Spanish document annexed.

JOS. S. SANCHEZ,
In. and Tr. Sup. Court E. D. F.

Royal Title to Jordine.

Don Enrique White, colonel of the royal armies, civil and military governor, and chief of the royal exchequer of this city of St. Augustine, in its province, by his majesty:

Whereas, by royal order, communicated to this government on the twenty-ninth of October, seventeen hundred and ninety, by the captain-general of the Island of Cuba and two Floridas, it is provided among other things, that the strangers, who, of their own accord, shall present themselves to swear vassalage to our sovereign, there should be granted and measured lands gratis, in proportion to the workers that each family may have; that Guillermo Jordine, having presented himself, solicited of the government, and there were granted to him, three hundred acres of land, at the plantation called Myrtle Grove, situated on Amelia Island, in this province, bounded on the north by marshes and the waters of the river St. Marys, on the north and east by lands of Don Domingo Fernandez, and on the south with those of Don Juan Bachlott, as appears by the certificate given by the private surveyor, Don Juan Purcell, and its plat annexed thereto; and also by the certificate issued by this secretary of government, all annexed to the proceedings which Doño Isabel Jordine, widow of said William, instituted, soliciting there should be issued to her the corresponding title to the said lands, which she already has measured and bounded, and of which she is in possession; and as there has been no title whatever issued for her security and proof to said lands, in the form it has been executed to others; that there has elapsed already more than the ten years of uninterrupted possession, to obtain the useful and direct dominion of said lands; built houses upon, and cultivated them, and finally complied with all the other conditions which the government have established for the concessions of this nature, to be seen in the titles issued to other settlers, as is instructed by said proceedings; wherefore, and in consideration of which, having first had the advice of his Hon. my lieut. auditor of war and assessor general, I have thought proper to grant, as in the name of his majesty and of his royal justice, which I administer, I do grant to the said widow of Guillermo Jordine, her children and heirs, and to whom may succeed them, the aforesaid three hundred acres of land contained in the aforesaid plantation in absolute property; and in issuing to her, as by these presents I do, the corresponding title, by which I separate the royal exchequer from the right and dominion which to said land it had, and I cede and transfer it to the said widow, children and heirs of Guillermo Jordine; that in consequence thereof they may possess it as their own, use and enjoy it free of any incumbrance, with all its inlets, outlets, uses, customs, rights and privileges that it had, have, and of right and in law thereto appertain and may belong; and it being their will, may sell, cede, transfer, exchange and alienate, as may best suit them; to all of which I interpose my authority as far as I can, and of right ought to, in virtue of the will of the sovereign. Given under my hand, and countersigned by the undersigned notary of his majesty, and of the government and royal exchequer, in this city of St. Augustine of Florida, the eighth of July, one thousand eight hundred and seven.

(Signed) ENRIQUE WHITE.

By order of His Excellency,

JOSE DE ZUBIZARRETA,

Notary of the Gov't.

I certify the preceding to be a true and correct translation of the Spanish document annexed.

JOS. S. SANCHEZ,
In. and Tr. Sup. Court E. D. F.

No. 12.

Memorial and Grant to Holzendorf.

Offered and read in evidence by U. States.

Objected to by claimant, but admittd by the court.

SEÑOR GOVERNOR:

Juan Holzendorf, a resident of this city, with due respect, appears before your Excellency, and says, that I have acquired the possession of about fifteen acres of land in rear of the city, where it is known as the marsh; that as well to add to said land as to make a causeway to pass to them, he requires eighty varas of front on those washed by the salt water, on the back of the garden of the government house, bounding on the south by those granted to Eusebio Bushnell, and upon which he has built a house; therefore, I pray your excellency will be pleased to grant to me the aforesaid eighty varas of land. St. Augustine of Florida, 14th of September, one thousand seven hundred and ninety-nine.

(Signed) JUAN HOLZENDORF.

St. Augustine, 14th September, 1799. Let the commandant of Engineers report.

(Signed) WHITE.

SEÑOR GONERNOR:

There will result no injury whatever to the city, in granting to the petitioner the number of yards of marshy land he asks your Excellency to grant him, adjoining those granted and possessed by Eusebio Bushnel, to the west of the government house, and no injury will result from its being fenced to attach it to the lands the petitioner states he is in possession, nor do I find that it would, if the causeway spoken of be made, for the purpose of communicating with them; but as the ditches being filled up that convey the water to the tan-yard, might injure these buildings, I am of opinion that if your Excellency thinks proper to grant to the petitioner the number of acres of land that he asks for, you should do so, on condition that he does not close the passage of the water, which is so necessary to the cureing of hides. It is all I have to say to your Excellency, in compliance with what I am directed in your preceding decree. Your Excellency will determine that which should be your pleasure. St. Augustine, 16th September, one thousand seven hundred and ninety-nine.

(Signed) PEDRO DIAS BENIO.

FINAL DECREE.

St. Augustine, 17th September, 1799. Granted to the petitioner the land which he solicits, without injury to third persons, and with the warning that he is not to stop the waters that may be necessary and required by Bushnel, to cure the hides in the tan yard that he has established.

(Signed) WHITE.

I certify the preceding to be a true and correct translation of the Spanish document annexed.

JOS. S. SANCHEZ,
In. and Tr. Sup. Court E. D. F.

No. 13.

Offered and read in evidence by United States. Objected to by claimant, but admitted by the court.

Memorial and Grant to G. and C. W. Clarke.

SENOR GOVENOR, &c.

Don Charles and Jorge Clarke, natives and residents of this city, with the respect due to your Excellencey, ask that your Excellency will be pleased to grant to them that piece of mirey ground north of the new bridge, extending to Eusbio Bushnel's fence, and contains from three to four acres of land, mirey and entirely useless in its present condition; which we can drain and make useful for planting &c., without injury to third persons; it is a favor which we ask with all submission to your Excellency.

ST. AUGUSTINE OF FLORIDA, 6th OF MAY, 1802.

Signed CHARLES W. CLARKE,
JORGE J. F. CLARKE.

ST. AUGUSTINE, MAY 8th. 1802.

Granted to them the land which they solicit, without injury to third persons, and the public health.

(Signed) WHTE,
LICENTITAE ORTEGA.

I certify the preceding to be a true and correct translation of the Spanish document annexed.

JOS. S. SANCHEZ, *Int.*
and Tr. Sup. Court, E. D. F.

Petition of Clarke to Change Location, &c.

SEÑOR GOVENOR.

Don Jorge Clarke, native and resident of this city, with due respect to your Excellency say, that the sixth of May last, past, we presented [my brother and myself,] and obtained by the decree of your Excellency, the mashy land that is vacant, situated from the new bridge to Don Eusebio Bushnel's tan-yard, for the purpose of draining it, and preparing it for planting &c., which I have been prevented from doing, by the commandant of engineers opposing that said land should be drained without its being done for lots, or filling it all up, which is of itself too great a work to have any one here engaged in it, when the dry lots are of so little value in comparison to what these would cost, and finally unnecessary, because it is well known that such land, if not kept clear of the waters which cover them every twenty-four hours, and cultivated by planting, would of itself, in a few years, be raised to the superfices of the land in its vicinity, and even if it were not so, and it being necessary not to stop the water ditches which convey it to Bushnel's tan-yard, but leave them a passage, the same ditch would pass through this land, and drain the fresh water that might be collected from the winter rains sufficiently; which is the only water that Bushnel requires, and Bushnel has even offered to pay a part of the expenses that it would cost to stop the salt water, because it is of great injury to him. And I obligate myself that there shall be no stagnant water there that might be prejudicial to the public health, besides of what service would the land be to me, if I permitted stagnant water there, when my object is to cultivate and build upon it. Wherefore I supplicate your Excellency, that our right to the said land be, as your Excellency has conceded them to us. But in the event that it cannot be done, I ask that your Excellency will be pleased to grant me one hundred of front on the east, and adjoining its boundaries on the north with the piece that was Don Juan Holzendorf's, [which is now mine, said Holzendorf having ceded to me his right,] and that my first petition be returned to me with the decree of your Excellency, which is in the hands of the commandant of engineers. It is a favor which I expect from the notorious justice of your Excellency.

ST. AUGUSTINE, 26th OF JUNE, 1802.

(Signed) JORGE J. F. CLARKE.

ST. AUGUSTINE, 26th OF JUNE, 1802.

Let the commandant of engineers report.

(Signed) WHITE.

REPORT.

Informed of the petition, and in compliance with the preceding decree, I say to your Excellency, that the public health being one of the most sacred things that there is among men who live in society, it would be indiscreet to attempt any project that directly or indirectly might impair it, the project of the petitioner being, as he tells me, to stop the arch of the new bridge, and by means of a draw gate-impede the entrance of the tides, giving outlet to the fresh waters, is tended with the great inconvenience, that the total draining must necessarily be by evaporation, and the land being very uneven, it will result, that in various low places, the water will be stagnant, and the evaporation will last a long time, and the public health assailed without any doubt; for as regards the cultivation of this small portion of land, there can result no benefit or advancement to the province, sufficient to compensate what might be suffered by the general health. I am of opinion that there should not be given him possession of the land he asks for in his first memorial, for he is not sufficiently disposed to drain it as it becomes, granting him only that which has been ceded by Juan Holzendorf, for having eighty varas in front and some in depth, he can build with ease, which is in my conception what it should be granted for, with the express condition of filling up to the level of the adjoining lands, leaving a ditch not too wide for the free course of the waters of the tan-yard of Eusbio Bushnel; and as the petitioner in his memorials gives some reasons, which in his opinion are founded and ought to favor him, I will show the little force of some of them, that the others may be judged by them. He says, that I have taken from him the lands granted to him in his first memorial; if he had said that I manifested to him I did not approve of his project, and that I would represent it if he commenced it, he would speak well, for from representing to taking there is a great distance. The petitioner says, that it is of itself too immense a labor to find here he would engage in it, when the dry lots are of so little value, in comparison to what these would cost; the little solidity of this reasoning is manifested by copying what Don Miguel Isnardy says in his memorial of the 7th of June, 1800. "Under which suppositions, and that the tribunal should acceed to the absolute grant of said marshes free of all incumbance and tax, without which grant *the* will undertake nothing pretenders who aspire to them." The draining of lands that are inundated and swampy, by filling up, be the best and most conformable to keeping the atmosphere pure; then if the best mode be unnecessary, that of the petitioner which is the worst, and the most contrary or opposed to general good; what would it be, following these principles? It would be outrageous. Not to molest your Excellency longer, I do not continue demonstrating the same of the other reasons that the petitioner gives, although the memorials asked for in this, would have, at the slightest intimation, been returned to the petitioner; if your Excellency, to whom I remit it, thinks proper to agree to my preceeding report, it ought to be delivered to him with a negative decree, in

order that he may not be able, at any time, to make any use of it; with which I conclude, saying to your Excellency, you will be pleased to caution the petitioner, that in future he must use less levity and more decorum, in his writings, which is all I can report to your Excellency, who will be pleased to resolve what would be his pleasure.

St. Augustine, 30th June, 1802.

(Signed) NICHOLAS BARCELO.

Final Decree.

St. Augustine, 1st of July, 1802.

In attention that in the decree of the eighth of May last, past, put upon the annexed proceedings, although without the report of the engineer, there being none at that time, there was granted the land which that and this treat of, without injury to the public health, and that it might be noxious to it to continue the establishment in contemplation, upon it; according to the preceding report, let it be made known to Don Jorge Clarke, that in consequence of it, the said decree is revoked, that he may not proceed to the project of draining, and what else intended, and therefore let both memorials be gathered in the secretary's office.

(Signed) WHITE.

I certify the preceding to be a true and correct translation of the Spanish document annexed.

JOSEPH S. SANCHEZ,
In. and Tr. Sup. Court, E. D. F.

No. 14.

Governor to Capt. General of Cuba.

Offered and read in evidence by United States.

Objected to by claimant, but admitted by the court.

Most Excellent Sir:

The miserable state in which this city and its province is placed, and seeing that of the fifty-one thousand thirty-one dollars and four rials, which are assigned as the annual allowance, there is due to it up to the end of April last, nine hundred and twenty-five thousand one hundred and thirty-three dollars and one and a half rials, compels me to seek some adequate means to be able to get out of the embarrassment in which it is always placed, for the want of monies to supply her most urgent necessities, as are the purchase of provisions, pay of the 3d battalion of Cuba, annual Indian presents and pay of accumulated

arrearages of the officers of the royal exchequer, invalid Floridian pensioners, and heads of families of new settlers, who enjoy daily allowances and charities, whose complaints would grieve the most inexorable, moving him to a tender compassion.

The greatest part of the commerce of this province, at present consists in the exportation of lumber, in English vessels that come to this port from Fernandina of Amelia Island, to load with lumber which they take to their dock yards in England, leaving a small duty of seven and a half per cent. upon a moderate valuation, which timber is cut by these inhabitants where they please, without any restriction; and the Americans, our neighbors, avail themselves also of the greater part of it clandestinely, without paying any duty whatever, adding the inconvenience of not being able to prevent it, owing to the desert places were it is situated.

That the king may be benefitted by what appertains to him, I am of opinion that there might be a measure adopted, which would be very useful to the settlement of this province, and is reduced to this; that as in West Florida it was provided to sell the lands, indiscriminately to natives and foreigners, according to their quality, for the purpose of aiding the royal coffers, which, perhaps, are not so much in want as these; let the same system be established here, selling to the newly admitted settlers, and to those that might be admitted under the regulations established by his majesty by royal orders.

The lands are granted gratis to those who, with the requisite qualifications, come to settle; but by a govenor regulation, the title of property is not given to them, until after the lapse of ten years of uninterrupted possession and cultivation; which practice is noxious for the reason of its being too long a time before they are enabled to dispose of the land, that in proportion to their family and slaves, might be granted to them, and because, if in that time any diplomatic change should occur, they would not be able to prove their right of property, being exposed to lose all that they might have improved upon them. The lands being bought by them, and by the inhabitants already settled, which I have no doubt they would do, rather than undergo the aforesaid term of ten years, this great obstacle would be removed, and many more new settlers would come in, and receiving their titles of property at once, they would consider them as having *as having* cost them their money, and would improve them, by so doing, profiting themselves; and there would result thereby the greater advancement and improvement of the country and royal coffers, and prevent, in some measure, that the Americans should profit by what belongs to us, for every settler would take good care that they did not take away his property.

The measure that I propose to your lordship, is not for the benefit of the country alone, on account of the poverty of these royal coffers, but for the circumstances also, in which the nation is placed at present; for it is necessary to use the greatest exertions to sustain her, and relieve her, in some measure, of her burthens and immense expenses, it not being opposed, in any way, to the will of the sovereign, whose desires are to have his royal interest promoted and increased

by all possible means. I am rather of the opinion, that his royal intentions would be fulfilled by the settlement of the province, and relief of his royal exchequer. Wherefore it, your lordship be of opinion, that this measure be of the king's approval. I hope to meet with that of your lordship, to put it in execution.

God preserve you many years. St. Augustine, of Florida, 19th of June, 1811.

Most excellent sir, the MARQUIS DE SOMERUDOS.

I certify the preceding to be a true and correct translation of the Spanish document annexed.

JOS. S. SANCHEZ,
In. and Tr. Sup. Court E. D. F.

Captain General to the Governor.

I have received your letters No. 26 and 37, relating to the proposition, that under the circumstances, the alienation of the royal lands to new settlers of that province would be useful, on the terms you express; and in answer, I say to you, that said alienation cannot take place, as the admission into Florida of the citizens of the United States, is prohibited by royal order of the 14th of November, 1804, and by another of the 31st of March, 1806. You will not continue, under any pretext whatever, the sale of lands to strangers which used to be made in West Florida.

God preserve you many years. Havana, 14th of September, 1811.

(Signed) EL MARQUIS DE SOMERUDOS.

To the GOVERNOR pro tem. of East Florida.

I certify the preceding to be a true and correct translation of the Spanish document annexed.

JOS. S. SANCHEZ,
In. and Tr. Sup. Court E. D. F.

No. 15.

Memorial and Grant to A. Clarke.

Offered and read in evidence by U. States, objected to by claimant, but admitted by the court:

SENOR GOVERNOR and CAPTAIN GENERAL:

Don Augus Clarke, a British subject, and planter upon the bank of the river St. Johns, received under the protection of Spain when this province of East Florida was transferred to the crown of his Catholic majesty, with the greatest respect says, that within the superior knowledge of your Excellency, he cultivates a plantation situated between the north point of Cunningham's creek and the branch

between said creek and that of Julington, and finds that, with the improvements that he has made on the said plantation, he can honorably support his family, which consists of five white persons and seven slaves, of his property. Wherefore, the petitioner humbly prays you will be pleased to grant your superior permission to the end that he may continue in the possession of the aforesaid plantation, which contains about seven hundred acres of land, on the same terms that lands are possessed by the other British subjects that have remained in this province under the protection of Spain: which favor he hopes to receive from the beneficent heart of your Excellency. St. Augustine, of Florida, 7th of January, 1790.

(Signed) AUGUS CLARKE.

DECREE.

St. Augustine, of Florida, 12th of January, 1790. As is asked for, on the same terms that the English and American families were permitted by the royal order of the 5th of April of the past year, 1786, to remain where they were then settled.

(Signed) ZESPEDES.

I certify the preceding to be a true and correct translation of the Spanish document aanexed.

JOS. S. SANCHEZ,
In. and Tr. Sup. Court E. D. F.

Certificate and Plat of Survey.

Don Pedro Manott, captain of the 3d battalion of the regiment of infantry of Cuba, and commissioned judge by his Excellency the governor, and commandant general of this province of East Florida, for the measuring and bounding of lands ordered to be distributed by his majesty.

I certify that at the plantation named Liberty Hall, there have been measured and delivered to the inhabitant, Don Augus Clarke, whose family consists, under the oath which he has taken, of one white person and five negro slaves, for which family there corresponded to him, thirteen caballerias and seventeen acres of land. The first line runs to the eastward, commencing at an oak marked with a cross, and ends at a pine with the same mark, measuring ninety four chains and $\frac{88}{100}$. The second line runs to the south, and commences at said pine, and ends in Conegan creek, at a maple, its measurement being of forty seven chains and $\frac{44}{100}$. The third line follows along the edge of said creek, which divides the limits of the lands of this inhabitant from those of the plantation of Hannah Moor, and runs to the westward, ending on the margin of the river St. Johns, measuring ninety-four chains and $\frac{88}{100}$. Its front running upon the margin of said river, all in accordance with the orders in my possession. The interested signed it, with the surveyor, Don Samuel Eastlake; and that it may appear and serve as intelli-

gence at the secretary's office of this government, to which the parties ought to apply for their respective titles, I give the present, at Liberty Hall, St. Johns river, the 17th November, 1791.

PEDRO MANOT.

(See original, page 216.)

I certify the preceding to be a true and correct translation of the Spanish document annexed.

JOS. S. SANCHEZ,
In. and Tr. Sup. Court E. D. F.

Royal Title to Clarke.

Don Juan Nepomuceno de Quesada, colonel of the royal armies, governor and commander-in-chief of this city and province, by his majesty, I do say: That consequent to royal order communicated to this government on the twentieth of October of the past year, one thousand eight hundred and *ninety*, by his Excellency Don Luis de las Casas, governor and captain general of the island of Cuba and two Floridas; which provides that to those strangers who of their own accord should present themselves to swear vassalage to his majesty, there should be lands granted and measured, gratis, in proportion to the workers that each family may have, with the rest expressed in said royal order. Don Augus Clarke having presented himself, and taking the usual oath, obligating himself besides to what is resolved by his majesty, he has asked me for a concession of lands, according to his family, which is of one white, and seven negro slaves, for which number there corresponded to him, at the place called Liberty Hall, thirteen caballerias and seventeen acres of land: the first line runs to the eastward, begins at an oak marked with a cross, and ends at a pine with the same mark, having in measurement ninety-four chains and $\frac{88}{100}$ links—the second line runs south, and commences from said pine, and runs to Conigon creek, to a maple; its measurement is of forty seven chains and $\frac{44}{100}$ links—the third line follows on the margin of said creek, which divides the limit of the land of this inhabitant from the plantation of Hannah Moor, and runs to the westward, terminating on the edge of the river St. Johns, having in measurement ninety-four chains and $\frac{83}{100}$ links; its front runs on the edge of said river. Wherefore, I have thought proper to grant to him, as in the name of his majesty and of his royal justice, which I administer, I do, grant the said thirteen caballerias and seventeen

acres of land forever, for himself, his heirs and successors, according to the plat and certificate given by Pedro Manot, captain of the 3d battalion of the regiment of infantry of Cuba, commissioned judge for said purpose—which concession I make to the said Don Augus Clarke, under the boundaries and measurement expressed, with the following conditions: First, that the said Don Augus Clarke, his heirs or successors, shall, within two years, calculated from this date, build a house, with a chimney to it, upon said lands, proportioned to his means and family; that it shall be the duty of the same to have the said land cleared and cut down for the purpose of planting, as also, within the term of three years, to have at least five head of neat cattle for each fifty acres of land that may not be fit for cultivation; and that whenever it should be wanted, or any part thereof, for public works or fortifications, he shall give them up, on condition of being reinstated in an equal number of acres at another place of his selection, or there shall be paid him its value, according to valuation; and finally, although this concession and donation is made in perpetuity, the receiver, nor his descendants, shall not alienate or transfer to other dominion said lands, until the expiration of the term of ten years possession; and even then he shall execute the first sale, with the permission of the government, and otherwise it shall be null; though of the fruits and other things that may be found upon the land, and may have been procured by the settler, by his industry, he may dispose of them, without the permission referred to of government, at any time: under which conditions, and not without them, I cede, renounce and transfer, to the said Don Augus Clarke, the aforesaid land; and I grant to him the possession of them, separating the royal exchequer from that which it had acquired. To all of which I interpose my judicial authority, as far as I can, and in law ought to, in virtue of what is determined by his majesty in his royal order aforesaid; and I grant the present—of which notice will be taken by the royal accomptant's office, at the exchequer. In this city of St. Augustine, of Florida, in the presence of witnesses, there being no notary, on the tenth of December, one thousand seven hundred and ninety-one, and signed, with the witnesses present, who were Don Manuel Rengil and Don Francisco Robira, present.

(Signed) QUESADA.
(Signed) MANUEL RENGIL,
FRANCISCO ROBIRA.

I certify the preceding to be a true and correct translation of the Spanish document annexed.

JOSEPH S. SANCHEZ,
In. and Tr. Sup. Court E. D. F.

No. 16.

Offered and read in evidence by United States, objected to by claimant, but admitted by the court:

Governor to Captain General.

EXCELLENT SIR:

I annex, for the approval of your lordship, the proceedings of the acquirement by the royal exchequer of a schooner for the service of this city, (of which she was in great want) and which was sold by a new settler, admitted and sworn by my predecessor in the command, Don Juan Jose De Estrada, for four thousand acres of land, which make one hundred and twenty caballarias measurement of the island of Cuba; which said new settler, although he looks like an American the United States, he is taken for an Englishman, in consequence of having followed the royalist party in the war of independence, since which time he established himself on the Bahama Islands.

Under other circumstances, I have no doubt that by these means this city might supply itself with provisions, and even with money, sufficient to cover her present demands; but at present, the confused state in which she is placed makes it almost impossible.

The creater part of the inhabitants of the Bahamas (which lands have been exhausted) wish to remove to this province, and as prudent persons, I presume that in a short time they would make it prosper: they would cheerfully pay one dollar, or one dollar and fifty cents, per acre, on condition that at the moment of taking possession, there should be given them the title of property, which they prefer to receiving them gratis, and retaining them ten years, as they are, by economical regulations of this government; for besides the mistrust which this inspires them with, experience has taught that it gives room to intrigues, which ordinarily results against the proprietors.

I believe that being able to procure useful inhabitants, with this advantage to the state, to exact the small stipend which I mention, no injury can follow, but rather on the contrary. I think that permitting large capitalists to make speculations in the matter, the necessities of the mother country might, in some measure, be succoured. These, to fructify their lands, would introduce Dutch, Swiss and Irish families, and from the Archipelago and Canary Islands, (if they were permitted,) they would furnish the first subsistences and the implements of husbandry; and after certain time, according to their private agreement which they might enter into, they would give them in fee simple free of incumbrance, or tax the lots of land that they may have stipulated. To this system the United States is indebted for the astonishing increase of her population, and is that, which in my opinion, we ought to adopt for this province in the event that it could not be settled with Spaniards, who are the only ones that *it* truth would become us, for being in numbers competent, they would secure forever this province to Spain, which will never happen with strangers if they are in numbers greater than the nationals; but at all events, I consider that said speculations should not be permitted, but upon the indispensable condition that the families that they import be Catholics, for from the mixture of distinct sects or

religions, results, that all insensibly become incredulous, and consequently be deficient of the holy reins of conscience, the impulse of their passions is the governing principle that rules their conduct; the man without religion has neither friends, family, nor country; they sacrifice all the moment it becomes their interests.

I find it extremely strange that giving the lands gratis to strangers, there should be so few Spaniards who have them. It is said that they were denied them under the pretext of not having slaves to cultivate them, and I do not find this to be right, nor reason sufficient to deprive them of the rights, preferent, which they ought to have over those, even in case they should leave them uncultivated, which would not be so general as is supposed, as the lots or portions are stipulated by the number of the persons that form the families. Each one of these would procure to draw from their possessions some advantage, which in time would facilitate them slaves to aid them in their respective labors; and if this just order had been observed, very likely the Spanish population would not have been diminished as it is. Having no property nor occupation, the youths go abroad to seek their subsistence, and consequently this emigration is the cause of the small progress that it has had, for it is rare for them to return to the country of their birth, and from which there must truly follow the extinction of the national inhabitants, and that the province would become possessed by strangers only.

To prevent it as much as possible, I am of opinion that to all the Spaniards having slaves or not, there should be given the lands gratis that correspond to them for the number of their families, regulating the allowance by the first regulation that governed, and not by the pitiful one latterly established. That except to the governors, auditors and royal officers, to the other persons employed, officers and troops of the battalion who are old, there be also lands given to them without any charge or incumbrance. That the strangers who may be admitted should pay one dollar or one dollar and fifty cents for what they receive, and in no wise to admit Frenchmen or Americans, and under the conditions that I have proposed, that the speculations of which I speak be permitted, for confining myself to our present occurrences, I think they ought to be preferred, for the aid of monies or provisions which I think might be facilitated to the mother country, particularly if these agreements or bargains were made directly with our supreme government in Europe. Notwithstanding all that is said, I consider that neither with this nor any other better plan, will we be able long to preserve peaceable possession of this territory. No one better than your lordship knows the fiscal impossibility that in the actual circumstances, Spain has to preserve the two Floridas, for you have before you, the innumerable and incontrovertible difficulties of furnishing monies, provisions and troops; think of the state they are in; to sustain them without said support, is an illusion which must necessarily compromit the honor of our arms and of the unfortunate commanders that govern them. Cruel position is that of those! who, destined to be victims of our impotency at the end of their career, and in the last days of their lives, find themselves by an

unavoidable fatality, obliged to lose at one single blow, the reputation, which by their conduct, until now, they have deserved! in our profession, misfortunes in some measures degrade, in the opinion of the chiefs who suffer them, because, in general we judge of the operations of our neighbors by the results, and certainly no satisfaction in this case is capable of repairing the demerit which, in the public opinion, he has suffered.

All or the greater part of the inhabitants of this province (who are Anglo-Americans,) are in rebellion—the Island of Amelia and the rivers St. Marys and St. Johns are in the possession of the United States troops operating in concert with them, and one and the other of them encamped and fortified at the distance of four miles from this city; and this is the state in which, on the 11th of June last, I took its command.

Your lordship, in consequence of the applications of my predecessor, has only been able to send the succor of ninety black militia-men, two hundred and fifty barrels of flour, one hundred and thirty fanegas of corn in ears, and 4706 dollars, since when it is nearly three months; it appears that it has been impossible to send others, and this prove the difficulties which I have before stated. These royal coffers have not one rial, nor credit, for it is some years it pays nobody its salary. The port is blockaded by two American privateers, who cutting off all communication with that capital, make prizes, rob and detain our shipping, and preventing there coming in to us any provisions. The battalion of Cuba naked, and the picket of blacks that came as reinforcement, without clothes for the winter, which is very raw here.

We are in want of articles of the first necessity, and at present our bread is corn that is not good, and which must give out very soon, we have no salt beef of any description, and the fresh, of which we have until now been supplied, has been torn from the hands of the enemy, which resource is about to expire, on account of the seasons, as well as the new measures which they have taken to prevent it, and as in the stores and shops there are no eatables, I have also upon me the indispensable support of all the town.

In the demarcation of limits, there has been granted to the Americans a scope of country greater than that contained in their thirteen States, and which renders these provinces untenable, they being surrounded, and without resources to put down the intrigues and ambition of the neighboring towns, who being determined as they are, for their possession, will not cease to commit hostilities against us, until they get them. Under such circumstances, the distributions which the exchequer would invest, in my opinion would be doleful and useless, because if their preservation is interesting, they ought to be furnished with forces that would be sufficient to repel an enemy. And I repeat, to think she can be sustained without means, provisions, or troops, and her inhabitants in rebellion, is a self demonstrated impossibility.

I regret, my lord, that my duty and responsibility compels me to cause your lordship reflections, which I believe you will consider

proper, whenever they are directed to the better service of the country; and under this opinion I hope, also, that if they deserve the attention of your lordship, you will have the goodness to excuse the molestation that with this confused explanation, I am afraid I may have caused you.

God preserve your lordship many years.

St. Augustine of Florida, 12th of September, 1812.

His lordship Don Juan Ruiz de Apodaca.

I certify the preceding to be a true and correct translation of the Spanish document annexed.

JOS. S. SANCHEZ,
Interpreter and Translator
Superior Court E. D. F.

Captain General to Governor.

TRANSLATION.

Under date of the 14th June last, His Excellency the Minister of the Royal Domains, tells me what follows:

"I have given to the king an acconnt of your Excellency's letter No. 9, of the 20th of November last, in which you inform of what was directed to you by the governor of East Florida on the occasion of his having given to Don Juan Russel one thousand acres of land in exchange for a schooner which he wanted for the royal service, and which with all its appurtenances, was valued two thousand and six hundred dollars. His Majesty being informed of the whole transaction has been pleased to approve, for this time only, said determination, in consideration of the absolute want of funds in said province, and commands me to charge you again, as I do charge you, to comply with the provisions of the royal orders of the 14th of November of 1804, and of the 31st of March, 1806, which prohibit the alienation of the royal lands, which was made in favor of foreigners, and which provisions ought to be complied with rigorously in future. This by order of His Majesty, I communicate to your Excellency for your knowledge and government."

And I communicate the same to your Excellency for the corresponding effects on your part. God preserve your Excellency many years.

Havana, 4th of March, 1815.

APODACA.

His Excellency the Governor of East Florida.

St. Augustine, 21st November, 1829. I certify that the preceding is a correct translation of the Spanish document annexed.

A. GAY,
Translator and Interpreter
of the Superior Court.

And afterwards, before the superior court for the district of East Florida, holden at the court-house, in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and thirty-four, to which term this cause had come by regular continuance, to wit: on Saturday, the forty-second day of said term, and the twenty-ninth day of the month of November, the following entry of record was made in this cause, to wit:

Continued for further Proof.

ELIZABETH WIGGINS
against
THE UNITED STATES OF AMERICA. } Land Claim 300 acres.

This case having been heard and submitted to the court, and the court having examined the same, doth order that this cause be continued, with leave to the parties to introduce further proof therein.

And afterwards, before the superior court for the district of East Florida, holden at the court-house, in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and thirty-eight, to which term this cause had come by regular continuance, to wit: on Wednesday, the second day of said term, and the eleventh day of said month, the following agreement was entered of record, to wit:

Agreement of Counsel.

SUPERIOR COURT—*District of East Florida.*

July Term, 1838.

It is consented and agreed as follows: that one case depending upon Aguilar's certificate alone, for proof of grant, shall be taken up to the Supreme Court—said case to be selected by claimants counsel—all other causes depending upon that question, to stand continued till a decision shall have been made in the Supreme Court on the case appealed.

It is also agreed that the case determined upon by the counsel, as the one to be appealed, shall be submitted at the present term, and a judgment entered pro forma by consent, for claimant, against the United States; the costs to abide the decision of the Supreme Court.

Dated St. Augustine, July 10th, 1838.

(Signed)
THOS. DOUGLAS, *U. S. Att'y.*
S. L. BUNITT, *Asst. Counsel U. S.*
JOS. L. SMITH, *Atty. for Claimants.*
JOHN DRYSDALE, *Sol. for Claimants.*
D. LEVY, *for Claimants.*
E. B. GOULD, *for Claimants.*
JOHN RODMAN, *Attorney for the Claimants,*
For whom he has acted.

And afterwards, at the same term in July, in the year of our Lord one thousand eight hundred and thirty-eight, to wit: On Monday, the fourth day of the said term, and the sixteenth day of said month, the following entry of record was made in this cause, to wit:

Further proof offered and case submitted.

ELIZABETH WIGGINS
vs.
THE UNITED STATES. } Land claim 300 acres.

This day came as well the counsel for the said claimant, as the counsel for the United States; and the counsel for the said claimant offered in evidence in this case a certified copy, by the keeper of the public archives, of an original certified copy by Tomas de Auguilar, of a memorial of, and concession to, Fernando M. Arredondo, for 2700 acres of land, dated 18th April, 1806, together with a certified translation thereof, to the receiving of which in evidence the said counsel for the United States objected, because it is irrelevant, and because it is a copy of a copy; which document was admitted in evidence, subject to the opinion of the court on said objection. The claimants' counsel then offered in evidence a certified copy of a memorial and decree, ordering titles to be issued to F. M. Arredondo, for 2700 acres of land, dated 11th December, 1817, together with a certified translation thereof; and also a certified copy of a royal title to F. M. Arredondo, for 2700 acres of land, dated 13th December, 1817, together with a certified translation thereof. To the receiving the said two last mentioned documents in evidence, the counsel for the United States objected, because the same are irrelevant, which said documents were admitted in evidence, subject to the opinion of the court on said objection.

Antonio Alvarez was on this day sworn as a witness for the claimant, examined, and his testimony taken.

This claim was now submitted the court for its decree therein, under the agreement of counsel, as entered of record on the 11th inst.

No. 17.

Memorial and Grant to Arredondo.

Offered and read in evidence by claimant.

Objected to by the counsel for the United States, as appears in the preceding entry of record.

TRANSLATION.

Petition.

HIS EXCELLENCY, THE GOVERNOR:

Don Fernando de la Maza Arredondo, an inhabitant and merchant of this place, with the greatest respect, represents to your Excellency, that he finds himself with a numerous family and slaves, for whom he has not obtained any grant of lands whatever, which grants are given to the settlers of this province, in conformity to the favors provided by his majesty, and as your petitioner wishes to employ himself with his slaves, in the cultivation of lands, and at the same time form an establishment for raising cattle, which, in time, may be useful to the inhabitants, he therefore respectfully supplicates your Excellency to be pleased to grant him, for the said end, two thousand seven hundred acres of land out of those that are vacant on the south margin of the river St. John, and at a place known, in the time of the British dominion, under the name of Dunn's Lake, bounding on the principal *winds* with vacant lands; which favor he hopes to receive from the justice of your Excellency. St. Augustine of Florida, 17th of April, 1806.

FERNANDO DE LA MAZA ARREDONDO.

Decree.

St. Augustine, 18th April, 1806. I grant to the petitioner the two thousand seven hundred acres of land which he solicits, and in the place which he indicates; and for the object which he expresses, without prejudice to a third party, and until the corresponding quantity be surveyed to him; and for his security, let the secretary's office issue to him the necessary certificate, which will serve him as a title in form.

WHITE.

Certificate.

I, Don Tomas de Aguilar, sub-lieutenant of Infantry, and secretary of this government, for his majesty, do certify that the preceding copy is faithfully drawn from the original, which remains in the secretary's office, under my charge; and in compliance with what is ordered in the superior decree, I give the present, as the interested party has manifested that he has mislaid the principal. St Augustine, of Florida, on the ninth of October, one thousand eight hundred and fourteen.

TOMAS DE AGUILAR.

St. Augustine, 22nd September, 1831. I certify that the preceding is a correct translation of the Spanish document annexed.

A. GAY,

Translator and Interpreter of the Super. Court.

TRANSLATION.

Memorial of Arredondo for royal title, and Decree.

SENOR GOVERNOR:

Don Fernando de la Maza Arredondo jun., of this city, and attorney, in fact, of his father of the same name, who is absent at Havana, with due respect to your Excellency, says, that on the 17th of April, 1806, there were granted to his said father two thousand seven hundred acres of land, on the south margin of the river St. Johns, at a place known, in the time of the British government, by the name of Dunn's Lake, as will appear by the certificate herewith annexed, and altho' owing to some inconveniences, and by reason of the disturbed state of the country, he did not succeed in making a settlement as he wished, and because his said father was engaged in service, in defence of the province, during the insurrection of 1812, and in rendering other commendable services, in doing which he has sacrificed his interests and incurred expenses, for the settlement of the country, as well as his having been elected to the provincial council of Havana, as a member; yet in consideration of the first recited services, (which are public and notorious,) he is entitled to a bounty of land, according to what his majesty has been pleased to order, by his royal order of the 29th of March, 1815, approving of the proposals made by your Excellency's predecessor, Brigadier Don Sabastian Kindelan. He therefore prays that your Excellency will be pleased to order that titles of absolute property for the said lands, be issued to him; a favor which he hopes to obtain from the justice of your Excellency.

FERNANDO DE LA MAZA ARREDONDO JUNR.

St. Augustine, 11th of December, 1817. Having seen the accompanying document, and in consideration of all which is set forth, the prayer of the party is acceded to; and in consequence thereof, let there be issued to him the title of property for the lands referred to, without injury to a third person.

COPPINGER.

I certify that the foregoing is a correct translation of a document written in the Spanish language. St. Augustine, July 16, 1838.

JOHN M. FONTANE,
Translator and Interpreter S. C. D. E. F.

TRANSLATION.

Royal Title to Arredondo.

Don Jose Coppinger, Colonel of the royal armies, civil and military governor pro tem., and chief of the royal domain of this place of St. Augustine of Florida, and of the province thereof, for his majes-

ty; whereas, in a royal order of the twenty-ninth of March, one thousand eight hundred and fifteen, his majesty has been pleased to approve the favors and rewards proposed by my predecessor, Brigadier Don Sabastian Kindelan, for the officers and soldiers of the regular and of the militia corps, and for individuals of this province, who contributed to the defence thereof in time of rebellion; one of said favors consisting in the distribution of lands; and, whereas Don Fernando de la Maza Arredondo, senr., did present himself and solicited and obtained from this government, on the seventeenth of April, one thousand eight hundred and six, two thousand seven hundred acres of land, out of those that are vacant on the south margin of the river St. John, and at a place known, in the time of the British dominion, under the name of Dunn's Lake, said tract bounding on the four principal *winds* with vacant lands, as it appears by the certificate issued by thesecretary of this government, bearing date on the ninth of October, one thousand eight hundred and fourteen, for which mentioned lands Don Fernando de la Maza Arredendo, jun., has solicited, in the name and in virtue of a power of attorney of his father aforesaid, that the title of property be issued to him, in virtue of the said favors, and in virtue of the merits and services rendered, which entitle him to the said favors, to which I thought proper to accede, by my decree of the eleventh of the current month, rendered in the expedient relating thereto, which exists in the archives of the present notary: therefore, I have determined to grant, as in the name of his majesty I do grant, to the aforesaid Don Fernando de la Maza Arredondo, senior, the mentioned two thousand and seven hundred acres of land, in the place already indicated, without prejudice to a third party, for himself, his heirs and successors, in absolute property, and to issue to him, as by these presents I do issue, the corresponding title, by which I divest the royal domain of the right and dominion which it had to the said tract; and I cede and transfer the same to the mentioned Don Fernando de la Maza Arredondo, his heirs and successors, in order that in consequence thereof they possess it as their own, use and enjoy it without any incumbrance whatever, with all its inlets, outlets, uses, customs, rights and services which it has had, has, and which in fact and of right appertain and may relate to it; and in order that, if it is their will, they may sell, cede, transfer and alienate it, as may best suit them; to the whole of which I interpose my authority as far as I can, and of right ought, in virtue of the sovereign will. Given under my signature and countersigned by the subscribed notary of the government, and of the royal domain, in this city of St. Augustine, of Florida, on the thirteenth of December, one thousand eight hundred and seventeen.

JOSE COPPINGER.

By order of his lordship,

JUAN DE ENTRALGO,
Notary of the Gov't and of the Royal Domain.

St. Augustine, 23d September, 1831. I certify that the preceding is a correct translation of the Spanish document annexed.

A. GAY,
Translator and Interpreter of the Super. Court.

Testimony of Antonio Alvarez.

ELIZABETH WIGGINS
vs.
THE UNITED STATES. } Land claim, 300 acres.

JULY 16th, 1838.

Antonio Alvarez, sworn as a witness for claimant, states:

I am keeper of the public archives of East Florida. The original concession to F. M. Arredondo, for 2700 acres, is not in that office. I do not know whether it has ever been there; it has not been there since I have been keeper. The copy made by me, and filed in this case, was taken from a certified copy by Aguilar.

Examined by United States.

Witness says, that the certified copy of the said concession to Arredondo by Aguilar, was delivered to me when I received the office. There is nothing in my office to show that any question was raised about the original concession at the time the royal title was granted. I do not know whether the original concession was in the office when the royal title bears date.

I took possesession of the office of the public archives in February, 1829. It does not appear that any question was raised as to the existence of the original concession, at the time the royal title was made.

Examined by Claimant.

I find this certified copy of the concesssion by Augilar, with the concessions for land—it ought to be with the memorials praying for titles—the papers relating to lands were in the possession of Doctor Gibson, when Mr. Reynolds was keeper of the archives, and this paper might have been misplaced at that time.

It was not usual during the Spanish Government to find certified copies by Aguilar in the archive office; these copies were made for the parties, but they were sometimes filed in the archives when accompaning memorials for any particular purpose.

Examined by U. States.

I do not know how the certified copy became separated from the memorial.

And afterwards at the same term of July, in the year of our Lord one thousand eight hundred and thirty-eight, to wit: on Thursday the seventh day of said term, and the nineteenth of said month, the following entry of record was made in the cause, to wit:

Decree.

ELIZABETH WIGGINS,
against
THE UNITED STATES OF AMERICA. } Land claim 300 acres.

This day came as well the counsel for the said claimant, as the counsel for the United States, and this cause having been submitted to the court, on the 16th inst., for its decree therein, under the agreement of counsel as entered of record on the 11th instant. In pursuance of said agreement, a decree is now entered pro forma for the said claimant, in manner following, that is to say:

Whereas, Elizabeth Wiggins did, in pursuance of the act of Congress of the United States, entitled "an act to provide for the final settlement of land claims in Florida," and approved 26th day of May, 1830, on the 26th day of May, 1831, file her petition for the confirmation of certain land therein mentioned, in the clerk's office of the superior court for the eastern district of Florida: and whereas, the attorney of the United States for said district, did duly appear and file his answer to the said petition, and this cause having been heard and evidence and argument of counsel as well on the part of the said claimant, as on that of the United States, having been offered and submitted to the court; the said court doth order, adjudge, and decree that this claim is valid, and that in accordance with the laws and customs of Spain, and under and by virtue of the late "treaty of amity, settlement and limits between the United States of America and the King of Spain," ratified by the President of the United States on the 22d February, 1821. And under and by virtue of the laws of nations and of the United States, it is hereby confirmed, adjudged, and decreed unto the said claimant, to the extent, at the place, and for the number of acres, as in the memorial of the said Elizabeth Wiggins to the governor, and the decree of the governor thereon, dated 6th of August, 1815, and filed herein, is set forth, to wit: "three hundred acres" of land, situated "on the eastern side of the pond of St. George."

Appeal.

Whereupon the counsel for the United States, moved the court, that an appeal be granted in this case, on behalf of the said United States, from the decree of this court, in this cause, to the Supreme Court of the United States, which is granted accordingly.